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16 **Attorneys for Plaintiffs and the Proposed Class**

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 JIM CLEMMENS, TERRI
20 HERNANDEZ, and MARIE
21 TOUSSAINT, individually and on
22 behalf of all others similarly situated,

23 Plaintiffs,

24 vs.

25 AMERICAN HONDA MOTOR
26 COMPANY, INC.,

27 Defendant.
28

Case No.:

**CLASS ACTION COMPLAINT
FOR DAMAGES**

DEMAND FOR JURY TRIAL

1 Plaintiffs Jim Clemmens, Terri Hernandez, and Marie Toussaint (“Plaintiffs”),
 2 on behalf of themselves and all other similarly situated members of the below-defined
 3 national and state classes they respectively seek to represent (collectively, the “Class”),
 4 bring this action against Defendant American Honda Motor Company, Inc. (“Honda”),
 5 based upon personal knowledge as to the factual allegations pertaining to themselves,
 6 and based upon information and belief and the investigation made by their undersigned
 7 attorneys as to all other matters, as follows:

8 **NATURE OF THE ACTION**

9 1. Plaintiffs bring this action individually and on behalf of a class of similarly
 10 situated owners and lessees who purchased or leased the following vehicles in all model
 11 years from 2013 to the present (collectively, the “Class Vehicles”):

- 12 • The Acura MDX in White Diamond Pearl paint (NH-603P);
- 13 • The Honda Odyssey in White Diamond Pearl paint (NH-603P) or
- 14 Taffeta White paint (NH-578);
- 15 • The Honda Pilot in Taffeta White paint (Paint Code NH-578);
- 16 • The Honda Fit in White Orchid Pearl or Bellanova White paint (Paint
- 17 Code NH-788P); and
- 18 • The Honda HR-V in White Orchid Pearl or Bellanova White paint
- 19 (Paint Code NH-788P).¹

20 2. The Class Vehicles all suffer from a paint defect which causes the Class
 21 Vehicles’ white paint to inevitably fail, peel, delaminate (that is, the separate paint
 22 layers separate due to adhesion issues), bubble, and flake (the “Paint Defect”).

23 3. The Paint Defect existed in latent form when Honda manufactured the
 24 vehicles and when Plaintiffs purchased the vehicles, but as demonstrated by
 25 innumerable consumer complaints, the Paint Defect will invariably manifest itself
 26 during the reasonably expected life of the Class Vehicles owned by Plaintiffs and the
 27 Class, causing paint failure, peeling, delamination, bubbling, and flaking.

28 ¹ Plaintiffs reserve the right to amend their definition of Class Vehicles to include other Honda-
 manufactured vehicles with the same Paint Defect.

1 4. The Paint Defect stems from a defect in the paint itself; a defect in the paint
2 when applied to the Class Vehicles' exterior; and/or a defect in Honda's manufacturing
3 process, including the complexities in using "three-stage" white paint to give the Class
4 Vehicles their pearlescent or metallic finish.

5 5. As detailed below, at all relevant times (late 2012 to the present based on
6 the time Honda began selling 2013 Class Vehicle models), Honda has been fully aware
7 of the importance customers place on the exterior appearance of vehicles. At all
8 relevant times, Honda has also been aware of the Paint Defect based on internal testing,
9 substantially similar paint problems with other Honda vehicle models, countless
10 consumer complaints, and at least one other substantially similar class action lawsuit
11 filed in Canada, which Honda's affiliate settled in 2022 for upwards of \$27 million in
12 available relief.

13 6. Honda has exclusive knowledge of, and has been in exclusive possession
14 of, information pertaining to the Paint Defect, which was material to Plaintiffs and
15 Class members, who could not reasonably know of the Paint Defect. Under all
16 circumstances, Honda had a duty to disclose the latent Paint Defect at the point of sale
17 of the Class Vehicles.

18 7. Despite that knowledge and duty, Honda has repeatedly failed to disclose
19 and even actively concealed the Paint Defect from Class members and the public, and
20 continued to market the Class Vehicles as luxurious, stylish, high-quality, and high-
21 value and value-retaining vehicles which, because of the Paint Defect, they are not.

22 8. In 2019, faced with a deluge of complaints about the Paint Defect, Honda
23 finally acknowledged the issue and implemented various Technical Service Bulletins
24 ("TBS(s)") extending the warranties on a subset of Class Vehicles' to cover repairs of
25 the Paint Defect.

26 9. As detailed below, Honda's warranties and extended warranties failed to
27 provide an adequate remedy to the Class because the warranties: (1) were provided
28 without adequate notice to Class Vehicle owners whose latent Paint Defect had

1 manifested; (2) provided no relief to many owners and lessees of excluded Class
2 Vehicles; (3) provided no relief to owners and lessees of Class Vehicles' whose Paint
3 Defect had not visibly manifested; (4) were arbitrarily and improperly honored; and (5)
4 and the repairs provided were inadequate, did not remediate the Paint Defect, and did
5 not restore the Class Vehicles to their bargained-for value. Moreover, with the current
6 expiration of its inadequate warranty remedies, Honda has refused, and continues to
7 refuse, to provide repairs or any other meaningful remedy to those who have suffered
8 economic harm because of the Paint Defect.

9 10. Automakers paint vehicles for two purposes: (a) to enhance aesthetics
10 (color, gloss, and appearance); and (b) to provide necessary functionality (chemical
11 and corrosion-resistance to protect the body of the vehicle). If any of these purposes
12 in selecting material and painting the vehicle is compromised, then the value of the
13 vehicle is greatly diminished and an integral component of the car will likely fail,
14 causing further damage in the form of rust and/or corrosion.

15 11. The condition of the paint on the body of a motor vehicle is widely
16 recognized in the automotive industry as a factor affecting the value of the vehicle.²
17 This is because "[t]he appearance (color, gloss, and texture) of the surface [of the
18 vehicle] significantly affects a customer's perception of product quality."³ In addition,
19 "customer expectations for the attributes given by the appearance of coatings continue
20 to increase as manufacturers compete to provide surfaces that offer enhanced surface
21 characteristics."⁴

22 12. The Paint Defect thus decreases the value of the Class Vehicles, forcing
23 owners/lessees of the Vehicles to either live with the problems caused by the Defect or
24 spend significant money—or hope that Honda will cover the cost—to have the Class

25 ² See, e.g., NAAA Vehicle Condition Grading Scale,
26 https://www.naaa.com/standards/vehicle_gradingscale.pdf; Ed Grabianowski, *How Kelley Blue*
27 *Book Works*, HowStuffWorks.com (Nov. 21, 2005), [http://auto.howstuffworks.com/buying-](http://auto.howstuffworks.com/buying-selling/kelley-blue-book4.htm)
28 [selling/kelley-blue-book4.htm](http://auto.howstuffworks.com/buying-selling/kelley-blue-book4.htm).

³ Nelson K. Akafuah, et al., *Evolution of the Automotive Body Coating Process—A Review*, MDPI (June 13, 2016), p. 20, <http://www.mdpi.com/2079-6412/6/2/24>.

⁴ *Id.*

1 Vehicles repainted. Even then, repainting an impacted panel does not cure the Paint
2 Defect because the remaining parts of the Class Vehicle still suffer from the latent Paint
3 Defect. Moreover, repainting the Class Vehicles results in a cosmetic defect that
4 permanently decreases the Class Vehicle's value.

5 13. As a direct and proximate result of Acura's deceit regarding, and failure to
6 disclose, the Paint Defect, Plaintiffs and Class members: (1) overpaid for the Class
7 Vehicles because the Paint Defect significantly diminishes the value of the Class
8 Vehicles; (2) have Class Vehicles that suffer premature unsightly paint failures; and
9 (3) must expend significant money to have their Class Vehicles (inadequately) repaired
10 and repainted.

11 14. Plaintiffs and Class members have purchased and leased Class Vehicles that
12 they would not otherwise have purchased or leased, or would have paid less for, had
13 they known of the Paint Defect at the point of sale. Plaintiffs and Class members have
14 consequently suffered ascertainable losses and actual damages because of Honda's
15 unlawful conduct.

16 15. Plaintiffs, individually and on behalf of all others similarly situated, bring
17 claims against Honda for: (1) violating California's Unfair Competition Law; (2)
18 violating California's False Advertising Law; (3) violating California's Consumers
19 Legal Remedies Act (injunctive relief); (4) violating the Pennsylvania Unfair Trade
20 Practices and Consumer Protection Law; (5) violating the New Jersey Consumer Fraud
21 Act; (6) breach of express warranty; (7) fraudulent concealment, and (8) unjust
22 enrichment. Plaintiffs and Class members seek restitution, actual and/or compensatory
23 damages, and equitable relief, among other forms of relief (as alleged herein).

24 **PARTIES**

25 **A. Plaintiffs**

26 16. Plaintiff Jim Clemmens is a resident of Baltimore, Maryland and is a citizen
27 of Maryland. Mr. Clemmens owns a 2016 Acura MDX in White Diamond Pearl paint.

28 17. Plaintiff Terri Hernandez is a resident of Chula Vista, California and is a

1 citizen of California. Ms. Hernandez owns a 2017 Acura MDX in White Diamond Pearl
2 paint.

3 18. Plaintiff Marie Toussaint is a resident of Haverstraw, New York and is a
4 citizen of New York. Ms. Toussaint owns a 2014 Acura MDX in White Diamond Pearl
5 paint.

6 **B. Defendant**

7 19. Honda is a California corporation with its principal place of business in
8 Torrance, California.

9 20. Honda is the United States sales and marketing subsidiary of, and is wholly
10 owned by, Honda Motor Company, Ltd, a Japanese corporation, with its principal place
11 of business at 2-1-1, Minami-Aoyama, Minato-Ku, Tokyo 107-8556 Japan. Honda is
12 responsible for designing, manufacturing, distributing, marketing, selling, and
13 servicing Acura and Honda vehicles in the United States, including the Class Vehicles.

14 21. From its California headquarters, Honda's management oversaw the design,
15 manufacturing, distribution, marketing, sale, and service of the Class Vehicles
16 throughout the United States.

17 22. Honda's sales and marketing leadership, as well as its accounting, financial,
18 and legal departments, are all based in its California headquarters. Furthermore,
19 Honda's marketing, sales, and financial documents were created and are located at its
20 California headquarters. Honda created and/or authorized the false and misleading
21 representations and omissions from California.

22 23. Honda's substantial participation in designing, manufacturing, distributing,
23 marketing, and selling the Class Vehicles from its California headquarters means
24 California has the greatest interest in the subject matter of this lawsuit.

25 **JURISDICTION AND VENUE**

26 24. This Court has original jurisdiction over this case under the Class Action
27 Fairness Act, 28 U.S.C. § 1332(d)(2). Minimal diversity exists between members of
28 the proposed Classes and Honda. Plaintiffs are citizens of California, Maryland, and

1 New York. Honda is a citizen of California. In addition, the amount in controversy in
2 this action exceeds \$5,000,000, exclusive of interest and costs, and there are more than
3 100 members in the proposed Classes.

4 25. This Court has personal jurisdiction over Honda. Honda's principal place
5 of business is in California, and/or Honda is engaged in systematic and continuous
6 business activity in California, has sufficient minimum contacts in California, or
7 otherwise intentionally avails itself of the California consumer market.

8 26. Venue is proper in this District pursuant to 28 U.S.C. § 1391. Honda's
9 principal place of business is in this District, and a substantial portion of the events or
10 omissions giving rise to Plaintiffs' claims occurred in this District, including oversight
11 of the design, manufacturing, distribution, marketing, sale, and service of the Class
12 Vehicles.

13 **FACTUAL BACKGROUND**

14 **A. The Class Vehicles; Honda's Representations Regarding the Class Vehicles;** 15 **Class Vehicle Sales; and Acura MDX Drivers' Tendency to Retain the Class** 16 **Vehicles**

17 27. The Acura MDX is a mid-sized luxury crossover SUV that was first
18 introduced to the US market in October 2000. The Honda Odyssey is a minivan that
19 was introduced by Honda in 1994. The Honda Pilot is a mid-size crossover SUV with
20 three-row seating manufactured by Honda since 2002. The Honda Fit is a subcompact
21 hatchback car manufactured and marketed by Honda since 2001 over four generations.
22 The Honda HR-V is a subcompact crossover SUV manufactured and marketed by
23 Honda over three generations.

24 28. Throughout the years, and at all relevant times, Honda consistently and
25 widely marketed the Class Vehicles as high-value, value-retaining, stylish, luxurious,
26 and durable vehicles. Honda's marketing of the Class Vehicles has enabled it to charge
27 consumers premium prices for the Class Vehicles. For example, the price range for a
28 2025 Acura MDX is \$50,900 to \$74,850.

1 29. Honda directly markets the Class Vehicles to consumers via extensive
2 nationwide, multimedia advertising campaigns on television, the Internet, billboards,
3 print publications, mailings, and through other mass media.

4 30. For example, in the 2014 Acura MDX brochure, Honda touted the Acura
5 MDX as “a luxury experience for mankind.”

6
7 INTRODUCING THE EXTREMELY NEW 2014 MDX

8 The SUV that set standards for an entire industry has raised
9 them once again.

10 Reinvention isn’t something we discover. It’s something we
11 create. The ability to push ego aside and begin again, through
12 the abandonment of what was familiar and maybe even good
13 enough. That was the inspiration behind our own recreation
14 of the MDX. Its entire soul reimaged. Because if your quest
15 is to build the world’s smartest luxury SUV for mankind, you
16 have to hold yourself to the standards of mankind. This is the
extremely new 2014 Acura MDX. More than an SUV, it’s a
luxury experience made for mankind

17
18 31. Likewise, in the 2014 Acura MDX press kit, Honda made the following
19 representations:

- 20 • “The 2014 MDX is the third generation of Acura's seven-
21 passenger luxury performance SUV, the first to be developed
22 from the ground up using an all-new, purpose-built platform
(body and chassis) fully optimized for the needs of today's
23 luxury SUV buyers.”
- 24 • “The 2014 MDX design, created in the Acura Design Studio
25 in Torrance, California, was developed under the theme of
26 ‘Aero Sculpture.’ With its alluring proportions, smooth,
27 arching bodylines and confident stance, the 2014 MDX
communicates a look of sophistication and elegance while
28 delivering new levels of aerodynamic efficiency.”⁵

⁵ <https://hondanews.com/en-US/releases/release-2a4a937df0b943c284e14f6d469348af-press-kit->

1 32. Honda made substantially similar representations regarding value, the
2 ability to retain value, style, luxury, and durability in product brochures and other
3 marketing for all Class Vehicles in all model years.

4 33. For example, Honda marketed the Class Vehicles for their excellent value
5 in relation to their cost, as well as their ability to retain that value. Honda repeatedly
6 touted the Acura MDX as a winner of the U.S. News & World Report Best Cars for the
7 Money Award, including in 2014:

- 8 • “Acura's hottest sellers, MDX luxury sport utility vehicle
9 and RDX luxury crossover SUV, have won U.S. News &
10 World Report's 2014 awards with MDX taking the ‘Best
11 Luxury 3-Row Midsize SUV For The Money’ award and
12 RDX winning the ‘Best Luxury Compact SUV For The
13 Money’ category.”
14 • ““The MDX and RDX continue to win accolades for their
15 outstanding combination of exhilarating, performance,
16 great fuel efficiency, and outstanding value on a luxury
17 scale,’ said Jeff Conrad, vice president and general
18 manager of Acura Sales. ‘With the five-passenger RDX
and new seven-passenger MDX, Acura has
unquestionably two of the most competitive luxury SUVs
in the market.’”⁶

19 34. Similarly, in a June 2013 press release, Honda stated that the “Honda
20 Odyssey led the minivan segment for maintaining the highest projected residual value
21 after five years of ownership as a percentage of value when new,” an attribute Honda
22 emphasized applied for all Class Vehicles:

23 “Honda models definitely punch above their weight when it
24 comes to value with class-leading quality, safety ratings,
25 standard features and a company commitment to avoid value-
26 sapping fleet sales” said Mike Accavitti, senior vice president
27 of automobile operations for American Honda.”

28 2014-acura-mdx.

⁶ <https://acuranews.com/en-US/releases/release-352eda959a624dac96bc7a6b06004c1a-acura-mdx-and-rdx-win-u-s-news-world-report-2014-best-cars-for-the-money-awards>.

1 35. Honda advertised the Class Vehicles' exterior paint as a central and integral
2 attribute of the Class Vehicles, an attribute that was necessary to complement the Class
3 Vehicles' value, ability to retain value, style, luxury, and durability.

4 36. For instance, in the 2014 Acura MDX press kit, Honda made the following
5 representations regarding the durability and resilience of the Acura MDX's paint and
6 suggested that the Class Vehicles' paint was essential to "compliment" the Acura
7 MDX's luxury design, including the White Diamond Pearl paint:

- 8 • The 2014 MDX is available in seven exterior colors,
9 including three metallic and four pearl colors. All colors
10 are expressive and luxurious in appearance,
11 complimenting the MDX's sophisticated and dynamic
12 body shape. The acid-resistant epoxy clear-coat paint is
13 superior to typical clear-coat paints for increased
14 resistance to urban pollutants:
 - 15 ➤ Silver Moon Metallic
 - 16 ➤ Crystal Black Pearl
 - 17 ➤ Dark Cherry Pearl
 - 18 ➤ Forest Mist Metallic
 - 19 ➤ Graphite Luster Metallic
 - 20 ➤ Fathom Blue Pearl
 - 21 ➤ White Diamond Pearl⁷

22 37. Honda made substantially similar representations regarding the Class
23 Vehicles' paint in marketing materials for Class Vehicles. For instance, the 2014
24 Honda Odyssey brochure encouraged consumers to find the "perfect" combination
25 between exterior and interior colors, including White Diamond Pearl. An August 2011
26 press release for the Honda Pilot marketed a "sleek new look" and included the
27 available paint colors, including Taffeta White and White Diamond Pearl. The 2015
28 Honda Fit brochure emphasized the model's "complete redesign," encouraged
consumers to "choose the right fit," and highlighted the various available paint colors,

⁷ As one other example, in the 2017 Acura MDX Press Kit, Honda made the following representations regarding the durability of Class Vehicles' paint: "All colors are expressive and luxurious to compliment the redesigned MDX's sophisticated and dynamic body shape. The acid-resistant epoxy clear-coat paint is superior to typical clear-coat paints for increased resistance to urban pollutants."⁷

1 including White Orchid Pearl. Likewise, the 2016 Honda HR-V brochure stated, before
2 listing available paint colors (including White Orchid Pearl for all trim levels):
3 “[f]unctionality versatility and efficiency are all important in a vehicle- and the HR-V
4 is definitely all those things. But let’s not kid ourselves: looks matter too. Fortunately,
5 the HR-V overdelivers in that department. By a mile.”

6 38. The Class Vehicle models are some of the highest-selling vehicles in the
7 United States market during the relevant timeframe because of Honda’s marketing of
8 the Class Vehicles as high-value, value-retaining, stylish, luxurious, and durable
9 vehicles.

10 39. For example, on July 11, 2014, Honda issued the following press release,
11 highlighting the 2014 Acura MDX as the highest selling three-row luxury SUV of all
12 time:

- 13 • “Record sales in the first six months of 2014 have
14 strengthened the third-generation MDX's position as
15 America's best-selling three-row luxury SUV – not only
16 in 2014, but of all time. Through June, sales of MDX are
17 up 68.4 percent (compared to the same period last year)
18 to 30,664 units, bringing cumulative sales of the MDX
19 over its nearly 15-year history to 692,710 units, making it
20 the most popular three-row luxury SUV of all time*. In
21 fact, the MDX has topped all other three-row luxury
22 SUVs in the annual sales rankings in every year since
23 2002. Cumulative U.S. sales of MDX are anticipated to
24 surpass 700,000 units before the end of the year.”

25 40. Honda has sold approximately 550,000 Acura MDXes between 2014 and
26 2023 to Plaintiffs and other Class members based on Honda’s effective branding of the
27 Acura MDX.

28 41. The other Class Vehicles have found similar sales success based on Honda’s
marketing of the Class Vehicles as high-value, value-retaining, stylish, luxurious, and
durable vehicles. The Honda Odyssey, for example, has been one of the best-selling
minivans during the relevant timeframe, with 1.3 million Odysseys sold by Honda
during that time.

1 42. As a result of Honda's marketing, Plaintiffs and Class members formed a
2 reasonable belief and expectation that the paint used on the Class Vehicles was of high
3 quality, would endure, and positively impact the long-term value of the Class Vehicles.
4 Furthermore, Plaintiffs and Class members paid a premium to purchase their Hondas
5 in white paint, as vehicles painted white are generally more expensive when compared
6 with vehicles in other colors.

7 43. Likewise, based on the marketed durability and longevity of the Class
8 Vehicles, Plaintiffs and Class members formed a reasonable belief and expectation that
9 the Class Vehicles paint would last a time commensurate with the useful life and
10 longevity of their Class Vehicles, that is, a timeframe well-exceeding over ten years.
11 Recent data from S&P Global Mobility, which tracks state vehicle registration data
12 nationwide, indicates that the average American currently keeps their vehicles a record
13 12.6 years.

14 44. Class members confirm that the Class Vehicles are durable, and a
15 substantial portion of Class Vehicles remain on the road more than ten years after
16 Honda sold or leased them. For example, Acura MD owners widely note on various
17 online sources that their Acura MDXes have reliably driven well-over ten years and
18 well over 100,000 miles, especially with regular maintenance.⁸ Thus, Plaintiffs and
19 Class members reasonably expected that the Class Vehicles' paint would remain intact
20 for that same duration.

21 45. Moreover, reasonable consumers like Plaintiffs and the Class members
22 reasonably expected that the Class Vehicles' paint would not fail, peel, delaminate,
23 flake, or bubble under normal conditions during the reasonably expected life of the
24 Class Vehicles and/or cause other problems that would negatively impact the value of
25 the Class Vehicles.

26 ⁸ E.g., <https://www.mdxers.org/threads/looking-for-who-has-the-most-miles-on-their-mdx.85426/>;
27 [https://www.mdxers.org/threads/how-many-miles-on-your-2nd-gen-mdx.40925/page-](https://www.mdxers.org/threads/how-many-miles-on-your-2nd-gen-mdx.40925/page-13?post_id=1581164&nested_view=1&sortby=oldest#post-1581164)
28 [13?post_id=1581164&nested_view=1&sortby=oldest#post-1581164](https://www.mdxers.org/threads/how-many-miles-on-your-2nd-gen-mdx.40925/page-13?post_id=1581164&nested_view=1&sortby=oldest#post-1581164);
https://www.reddit.com/r/Acura/comments/15fylsa/how_many_miles_has_your_acura_mdx_which_year/.

1 46. Plaintiffs and Class members were exposed to and relied on Honda's
2 pervasive, long-term, national, multimedia marketing campaign touting the supposed
3 value, style, luxury, and durability of the Class Vehicles, including the quality and
4 durability of the exterior paint (and the exterior paints ability to complement the
5 aesthetics and style of the Class Vehicles). Plaintiffs and Class members justifiably
6 made their decisions to purchase and/or lease their Class Vehicles based on Honda's
7 misleading marketing.

8 47. However, as discussed below, rather than produce Class Vehicles with
9 durable, high-quality paint complementing the Acura MDX's "sophisticated and
10 dynamic body shape" and lasting the Class Vehicles' expected useful life, Honda
11 knowingly manufactured and sold the Class Vehicles with a Paint Defect that causes
12 paint failure, peeling, delaminating, bubbling and flaking during the expected life of
13 the Class Vehicles, greatly reducing their value and consumer desirability, and also
14 resulting in costly repairs.

15 48. Plaintiffs and other consumers did not and could not know of latent dangers
16 arising from Honda's design specifications or manufacturing processes, including the
17 risk that the Products were at unreasonable risk of catching fire. Moreover, Plaintiffs
18 could not reasonably discover the risk of fire or burning through inspection of the
19 Products or other reasonable means.

20 **B. Honda's Paint Process and the Paint Defect**

21 49. The Class Vehicles all suffer from a Paint Defect which causes the white
22 paint applied to the Class Vehicles to prematurely fail, bubble, peel, delaminate, and
23 flake during the reasonably expected life of the Class Vehicle.

24 50. The Paint Defect in the Class Vehicles is a systemic defect in the Class
25 Vehicles' white paint; the white paint as applied to the Class Vehicles' exterior
26 materials; and/or the manufacturing processes Honda used to apply the Class Vehicles'
27 white paint.

28 51. The Paint Defect is not associated with geography or other environmental

1 factors because the Paint Defect is found in Class Vehicles in every state, regardless of
2 climate or other geographical factors (such as proximity to cities and pollution
3 exposure). Moreover, the Paint Defect only impacts Class Vehicles (all painted white),
4 as opposed to Honda vehicles painted in other colors.

5 52. During the relevant timeframe, the Class Vehicles were primarily
6 manufactured in Honda's Lincoln, Alabama (2013-2017) automobile factory using a
7 robotic paint system.

8 53. The Honda painting process involves several critical steps:

- 9 • Each body is cleaned and degreased, and then undercoated by
10 immersion in a zinc-phosphate bath.
- 11 • The body is then dipped in a soluble, electro-deposited primer (called
12 an e-coat).
- 13 • To prevent dust and moisture from accumulating in critical areas,
14 special sealants are sprayed into crevices and seams in the body.
- 15 • Areas of the body that are susceptible to stone and gravel damage are
16 coated with a special anti-chipping primer.
- 17 • An intermediate primer coat is applied, followed by either a polyester-
18 resin or acrylic-resin topcoat and, if a metallic or pearlescent paint
19 color is involved, a mid-coat.
- 20 • Metallic and pearlescent paints—like those involved in this case—
21 receive an additional clear coat.

22 54. The Paint Defect here stems from: (1) the white paint applied to Class
23 Vehicles itself; (2) issues involved in applying “three-stage” or “tri-coat” paint on a
24 vast majority of the Class Vehicles, including the Diamond White Pearl, White Orchid
25 Pearl, Bellanova White paint colors (and now widely failing, bubbling, peeling,
26 delaminating, and flaking); and/or (3) issues with the Class Vehicles’ primer, e-coat,
27 and clear coat paint layers.

28 55. In most cars, there are only two primary paint layers, starting with the
colored “base coat” at the bottom, and then topped with a “clear coat.” With a three-
stage paint, however, there is an additional “mid coat” pearl or metallic paint layer

1 between the base coat and the clear coat.

2 56. Three-stage paints add a sparkling finish to a car's overall paintwork, giving
3 the surface a sense of depth or richness that two layers alone would not be able to
4 accomplish. Due to aesthetic benefits, three-stage painted cars are more appealing and
5 costly to consumers, including the Class Vehicles purchased by Plaintiffs and Class
6 Members.

7 57. However, three-stage paints like the paint colors underlying the Paint
8 Defect are far more likely to peel or delaminate, as well understood by car
9 manufacturers (including Honda) and as seen in the Class Vehicles. Key factors
10 contributing to the early peeling of three-stage paints include:

- 11 • Inconsistent Application: The process requires
12 meticulous precision. Any variation in the application of
13 the clear coat or insufficient curing can lead to adhesion
14 problems, resulting in premature peeling; and
- 15 • Complexity and Cost: The additional layers in three-stage
16 paints increase both cost and application difficulty. Minor
17 defects during production were more likely to result in
18 long-term durability issues.

19 58. The three-stage pearl paints used on Class Vehicles were prone to peeling,
20 delaminating and other issues due to a latent defect in the “three-stage” white paint
21 itself, or in the manufacturing process (such as an inconsistent application of the paint)
22 Honda used to apply the white paint during the relevant timeframe.

23 59. In addition, primer is an essential element in the quality of the adhesion
24 between the e-coat and the basecoat. Primers must be tested for their ability to
25 withstand “chemical reactivity” to UV light and extreme weather conditions because
26 disintegration of any agents within the primer will likely cause “a drastic loss of
27 adhesion and delamination of the topcoat [clearcoat].”⁹ The durability of the paint, and
28 the prevention of corrosion, is dependent upon the adhesion of the layers of the paint

⁹ Nelson K. Akafuah, et al., *Evolution of the Automotive Body Coating Process—A Review*, MDPI (June 13, 2016), p. 20, <http://www.mdpi.com/2079-6412/6/2/24>.

1 system, including the e-coat, primer, and clear coat layers.

2 60. Intercoat adhesion of all paint layers—including the Class Vehicles’ e-coat,
3 primer, and clear coat layers—is a critical determinant of the quality of a paint system
4 on any item (including the ability to withstand UV light), not just automobiles.
5 Achieving excellent performance and application properties of any paint requires a
6 holistic approach to ensure compatibility, not only within a paint formulation across all
7 ingredients, but also between the paint formulation and the paint system used for the
8 application of the paint, so that all paint layers can properly work together and bring
9 out those properties. An inadequate layer or poor adhesion between layers (i.e., poor
10 intercoat adhesion) is the weakest link of a paint system, and greatly increases the
11 probability of paint system failure, such as the peeling, delaminating, and other paint
12 issues at issue in this case.

13 61. Given the purpose of automotive coatings and the value added by a quality
14 paint job, automobile companies spend millions of dollars conducting a myriad of long-
15 term and short-term tests to ensure automotive paints provide excellent aesthetics and
16 performance properties.

17 62. Degradation of the e-coat and primer coatings in an automotive paint
18 system—as was highly likely in the case (in addition to issues related to the white
19 paint’s three-stage painting process)—can be caused by the defective nature of the
20 materials and paint layers used or the improper manner in which they are applied during
21 the painting process, resulting in accelerated degradation at the interface between the
22 clear, mid-coat, and/or basecoat. This degradation causes a loss of adhesion and will
23 manifest as peeling or delaminating, and eventually rusting and damage to the vehicles’
24 exterior. This is what happened and is happening to the Class Vehicles.

25 63. Reasonable consumers contemplating the purchase or lease of a Class
26 Vehicle developed a reasonable and material expectation regarding the quality and
27 longevity of the paint used on Class Vehicles based on Honda’s nationwide public
28 advertisements, statements, and representations regarding the high-value and durability

1 of its vehicles and paints, including Honda's representations regarding the "epoxy
2 clear-coat paint" discussed above.

3 64. Contrary to these reasonable and material expectations, and Honda's
4 advertisements, statements, and representations, however, the paint systems on the
5 Class Vehicles have failed due to the Paint Defect—a clear loss of adhesion between the
6 Vehicles' clear coat, mid-coat, and base coat.

7 **C. The Paint Defect Is Widespread in the Class Vehicles, and in 2019, Honda**
8 **Acknowledged the Defect by Implementing (Inadequate) Extended**
9 **Warranty Programs**

10 65. As demonstrated by a multitude of complaints and reports made by owners
11 and lessees of Class Vehicles, the Paint Defect is a ubiquitous issue for Class Vehicles
12 and manifestation of the Paint Defect is almost a certainty at this point.

13 66. Class member reports relating to the Paint Defect bear striking similarities
14 to one another and (as further detailed below) the Plaintiffs' experiences with the Paint
15 Defect and Honda's response to the Paint Defect, including:

- 16 • Reports of premature paint failure, such as peeling,
17 delaminating, bubbling, and flaking during the reasonably
18 expected life of Class Vehicles;
- 19 • Reports of Honda, auto paint technicians, and auto body
20 repair shops being well-aware of the Class Vehicles' Paint
21 Defect;
- 22 • Reports of the inadequacy and arbitrary administration of
23 Honda's warranties and extended warranties directed
24 toward the Paint Defect;
- 25 • Reports of Honda or its agents' improper refusal to repair
26 the Paint Defect; and
- 27 • Reports of high estimates and high costs to repair the
28 Paint Defect, inadequate repairs, and risk of further paint
failure (stemming, for instance, from the repainting of
only one panel as opposed to the whole car).

67. On MDXERS.org, a popular forum for Acura MDX owners, Class members

1 on a forum thread titled “2016 MDX Roof Paint Peeling VIN Specific” describe their
2 experience with the Paint Defect and with Honda as follows:¹⁰

- 3 • Acu2016 on Feb. 15, 2024
- 4 ○ Our 2016 MDX with white diamond pearl paint just started peeling
 - 5 on the roof and it's getting worse. Thanks to this forum, I found out
 - 6 that Acura has 8 year Warranty Extension TSB 19-029 on 2014-
 - 7 2016 MDX with white diamond pearl paint.

8 So I called Acura. After the rep did the search on their system, I
9 was told that our VIN number is not in the list that qualify for this
10 warranty extension. Even though the our MDX has exact problem
11 described on TSB and it's within 8 year time and the model.

12 I requested to talk to the case manager and now I'm waiting to hear
13 from them. I told them I want to send the photos and spoke with 7
14 different shops. All the shops said the same. It's the manufacturer
15 paint failure.

- 16 • J-Rods on Feb. 19, 2024
- 17 ○ I have the same exact peeling paint in the exact same spot. Spoke
 - 18 with the Honda America rep and was told the same. My vin is not
 - 19 in range. I asked if they changed the paint & if so, it didn't work.
 - 20 Asked to speak with someone else above the rep in management
 - 21 and was denied. I was asked to complete their survey and I was
 - 22 honest. I gave the lowest rating possible & need to figure out the
 - 23 next step Will be reaching out to an attorney for advice.

- 24 • Serius on Feb. 28, 2024
- 25 ○ I also have the same peeling at the same spot on my white diamond
 - 26 pearl 2016 MDX. Honda America also denied my claim for the
 - 27 same reason: VIN not in range. I bought my car on August 2015,
 - 28 and the issue occurred on Sept 2023. I filed the claim on through
 - Acura dealer a week after the peel occurs, and Honda America said
 - the extended warranty started from the date the car rolls out from
 - the factory (May 2015), not the date I bought the car.
 - Please let me know if there is a class action lawsuit and I will be
 - happy to join

¹⁰ <https://www.mdxers.org/threads/2016-mdx-roof-paint-peeling-vin-specific.182510/>

- 1 • ppruiett27 on Mar. 2024
 - 2 ○ Yes, I just noticed this weekend. We called Acura and they also said
 - 3 since its been past 8 years more like 9 1/2 they are denying. It is
 - 4 obviously a paint problem as it delaminated all the way to the metal.
 - 5 No help from the dealer or Acura Warranty. If you get anywhere
 - 6 please let us know. I am very disappointed.
- 7 • Miles2016 on Mar. 12, 2024
 - 8 ○ New to this Forum~ Isn't there strength in our numbers ? I had my
 - 9 transmission changed out due to faulty shifting, the dealer
 - 10 discovered it when I was doing my 100K tuneup~ the dealer took
 - 11 care of it in(2023) with no charge to me, why not fixing this paint
 - 12 issue ?
- 13 • Joie on Mar. 22, 2024
 - 14 ○ Same issue here. Didn't really notice the issue during the COVID
 - 15 years and now a massive spot around the front roof. Honda USA
 - 16 said they won't cover it because the 8 years has passed. Bunch of
 - 17 clowns.
- 18 • Bill G on Apr. 5, 2024
 - 19 ○ Same here! Got denied even though it is a well known problem.
 - 20 Unfortunately our 2015 was manufactured in 2014 and is over the
 - 21 8 year mark. I'd certainly sign on to a class action!! Paying all that
 - 22 money to have paint peel off prematurely is ridiculous...
- 23 • Beckyro84 on Apr. 15, 2024
 - 24 ○ I have a 16 with the correct paint code. And this Saturday i walked
 - 25 outside and saw a huge chip of paint missing from the roof. Called
 - 26 Acura and it was out due to the time of when the vehicle was
 - 27 purchased. This is absolutely insane! Something needs to change
- 28 • Erkuan on Apr. 15, 2024
 - Same here. I got 2016 MDX in 2015 and just exceeded the warranty
 - for couple of month. The Honda rejected to pay for the repair and
 - the local dealer did nothing to help me.
- Whtdiamondpearlpurgatory on May 13, 2024
 - Anyone having any luck here? I have a 2016 MDX with this issue.
 - The rooftop paint actually started peeling in 2019 and at the time

1 we took it to our Acura dealer and had it repainted under warranty
2 (though of course they contracted out the paint work to a body
3 shop). Just this week it started peeling AGAIN, just behind the
4 sunroof. So far I am getting stonewalled at all levels, corporate reps
5 are telling me it's hopeless. What a terrible experience, especially
6 for a "luxury" brand. We did the right thing and the issue SHOULD
7 HAVE been addressed in 2019, and now I'm told there is no
8 recourse since the 8-year extended warranty is up. I feel like there
9 should be an exception given that we took it to them for repair and
10 the underlying issue was not addressed. But I'm running out of
11 ideas.

- 12 • minh.b.nguyen on May 28, 2024
 - 13 ○ same problem here...was told by Acura America and dealer tough
 - 14 luck...so much for "luxury vehicle".
- 15 • Randramey on June 19, 2024
 - 16 ○ I agree. I called the Acura dealer in San Jose and they told me the
 - 17 same thing. I told them that the problem just started a month and a
 - 18 half ago, so when they told me that it was out of the extended
 - 19 warranty, I was angry.
 - 20 With all of the claims that are identical, there needs to be something
 - 21 done. Like a Class Action lawsuit. American Honda is showing
 - 22 how their "plausible deniability" is a true reflection that they really
 - 23 don't care about their customers. The dealer even stated that they
 - 24 could not give me a discount of the body work. I have been buying
 - 25 Acura's for the past 15 years; however, I am done.

26 68. This is a sample of the complaints on MDXer.org, which is just one of a
27 slew of forum threads on the Paint Defect manifestation in the Acura MDX, each of
28 which contains sometimes dozens of replies describing experiences with the Paint
Defect and Honda's refusal to address the issue.¹¹ One other thread titled Brand new

¹¹ E.g., (1) White Pearl Paint Peeling from 2012 Acura MDX, https://www.mdxers.org/threads/white-pearl-paint-peeling-from-2012-acura-mdx.173528/?post_id=1613669&nested_view=1&sortby=oldest#post-1613669; (2) 2016 Roof Paint Peel Not Covered Under Extended Warranty/Recall, https://www.mdxers.org/threads/2016-roof-paint-peel-not-covered-under-extended-warranty-recall.180931/?post_id=1612987&nested_view=1&sortby=oldest#post-1612987; (3) Pearl White Paint Recall Story, https://www.mdxers.org/threads/pearl-white-paint-recall-story.178147/?post_id=1612981&nested_view=1&sortby=oldest#post-1612981; (4) 2016 Roof

1 2014 MDX Paint peeling, posted by “nelci” on October 9, 2013 (prior to Plaintiffs’
2 purchases), states the following:

3 Hi,

4 Bought a brand new 2014 SH-AWD MDX Tech Pearl white
5 on 09/21/2013. Paid total \$53000 for it.

6 After a week while washing the car, I saw a black patch and
7 realized the paint is peeling off on the front A pillar passenger
8 side.

9 Contacted the dealer and Acura claims.

10 They are offering to paint the car. Re-painting a brand new
11 car very disappointing.

12 They claim car does not depreciate in value because of this,
13 but does not want to give it in writing.

14 Also, they do not want to warranty the life time of the new
15 paint will be as good as OEM paint.

16 Really appreciate any suggestions on how to deal with the
17 problem.

18 Paint Peel Not Covered Under Extended Warranty/Recall, https://www.mdxers.org/threads/2016-roof-paint-peel-not-covered-under-extended-warranty-recall.180931/?post_id=1610874&nested_view=1&sortby=oldest#post-1610874; (5) Paint peeling
19 problem for 2014 MDX White Diamond Pearl, https://www.mdxers.org/threads/paint-peeling-problem-for-2014-mdx-white-diamond-pearl.180088/?post_id=1610456&nested_view=1&sortby=oldest#post-1610456; (6) How much to
20 paint the roof - is it worth it before trading? Paint peeling issue.,
21 https://www.mdxers.org/threads/how-much-to-paint-the-roof-is-it-worth-it-before-trading-paint-peeling-issue.183186/?post_id=1608426&nested_view=1&sortby=oldest#post-1608426; (7) 2014
22 MDX White Pearl Peeling Paint - Need TSB info, https://www.mdxers.org/threads/2014-mdx-white-pearl-peeling-paint-need-tsb-info.178594/?post_id=1608174&nested_view=1&sortby=oldest#post-1608174; (8) PSA: 2014-
23 2016 White Diamond Pearl Sucks, https://www.mdxers.org/threads/psa-2014-2016-white-diamond-pearl-sucks.170150/page-2?post_id=1596678&nested_view=1&sortby=oldest#post-1596678; (9)
24 White paint, https://www.mdxers.org/threads/white-paint.181496/?post_id=1594658&nested_view=1&sortby=oldest#post-1594658; (10) White
25 Diamond Pearl peeling??, https://www.mdxers.org/threads/white-diamond-pearl-peeling.174242/?post_id=1526860&nested_view=1&sortby=oldest#post-1526860; (11) Painted
26 the roof black!, <https://www.mdxers.org/threads/painted-the-roof-black.172434/>; Peeling paint on
27 2017 MDX, <https://www.mdxers.org/threads/peeling-paint-on-2017-mdx.183087/>.

69. Reports of the Paint Defect in the Acura MDX are not only limited to MDXER.org but, instead are confirmed elsewhere on the internet, including on the National Highway Traffic Safety Administration website,¹² CarComplaints.com,¹³ AcuraZine.com (another popular Acura forum),¹⁴ and Reddit.com,¹⁵ among other sources.

70. Owners and lessees of Class Vehicle in other makes and models have made substantially similar widespread complaints of the Paint. Honda Odyssey owners and lessees, for instance, have reported the following on Odyclub.com, a popular Honda Odyssey forum:¹⁶

- VanMorrison on June 14, 2024
 - Yep, same here. Their unwillingness to stand by their paint has ensured that I'll never again purchase another Honda product. I've owned many cars and NEVER had paint issues like this. I had a Benz for 15+ years that never had similar issues and we've had a Tesla now for 7 years, and for all the people yapping about poor Tesla paint quality, the Tesla has more miles than the Odyssey and the paint is immaculate. Meanwhile, this supposedly top of the line Odyssey is shedding it's skin like a ghoul in Fallout.... Honda can seriously go paint themselves.
- Kristylea on April 6, 2024
 - My 2014 Pearl White Odyssey is peeling everywhere! The side doors, the hood and the top of the roof! I've never seen this before on Hondas that are way older than 10 years! I jumped on here to see if this was just my van or a pearl white issue.....so mad this is happening since these vans last forever minus the paint! I'm hoping Honda does something but it sounds like they aren't. Class action lawsuit should happen if they won't fix the problem since pearl white was the best color IMO. Everyday more paint chips away in

¹² E.g., <https://www.nhtsa.gov/?nhtsaId=11583646>.

¹³ E.g., https://www.carcomplaints.com/Acura/MDX/2014/body_paint/paint_issues.shtml; 1

¹⁴ <https://acurazine.com/forums/3g-mdx-2014-2020-414/mdx-paint-peeling-off-980490/>

¹⁵ https://www.reddit.com/r/Acura/comments/1aslcss/acura_mdx_peeling_paint_anyone_else_have_this/; https://www.reddit.com/r/Acura/comments/11pvjfx/2014_mdx_white_pearl_paint_issue/

¹⁶ E.g., <https://www.odyclub.com/threads/paint-peeling-on-my-2014-odyssey.362519/?sortby=newest#replies>

chunks!

- Ba Yani on Mar. 14, 2024
 - I have the same situation, my 2014 Odyssey white paint suddenly is peeling off.



- CSHIRLEY on February 1, 2021
 - I have spoken with Honda Motor Corp and they refuse to do anything about the obvious paint defect for White Pearl. Has anyone considered joing [sic] to file a class action lawsuit to receive compensation? A local body shop quoted \$1,000.00 to make the repairs to my car. The paint is coming off in chunks on the driver's side passenger door.

71. Honda Pilot owners have also made widespread reports of the Paint Defect

1 on Piloteers.org, a popular Honda Pilot forum:¹⁷

2 • **Taliak on November 28, 2022**

- 3 ○ I am so angry at Honda. My pilot 2012 Honda is peeling by chunks.
4 I heard of a class action lawsuit that was settled in Quebec.
5 Wondering if we know of any in regards to our pilots? Or if anyone
6 is willing to start one here in Canada?

7 • **Frustrated on July 23, 2024**

- 8 ○ I have a 2015 White Pilot, which I bought used in Dec 2017. My
9 paint started coming off Oct/Nov of 2022. I went to Honda, who
10 referred me to a collision center who TOLD ME that it was a known
11 defect that the white pearl Hondas and Toyotas from this specific
12 year - Honda would not cover it. The roof from my windshield to
13 my sunroof is gone and now my hood is starting to peel. By the time
14 it started peeling, my warranty had expired 4 months prior; A
15 warranty I have no knowledge of. It's so frustrating.

16 • **Blaker on July 20, 2024**

- 17 ○ I bought a used 2015 pilot, pearl white with 61k miles. It must have
18 had some paint work and in a month the whole hood was peeling.
19 tried to get support from honda. No such luck post 7 year extended
20 warranty. \$3k in painting later I am looking for some partial
21 support.

22 • **Hermiehug on May 6, 2024**

- 23 ○ 2013 model (White Diamond) and now seeing 2nd occurrence of
24 paint peeling. Went back to look at service history, and see that I
25 happened to report the first occurrence in May 2020 - exactly 3
26 months before the 7-yr extended warranty expired!! Talk about a
27 stroke of luck! (At the time, the roof was repainted by Honda with
28 no cost to me.)

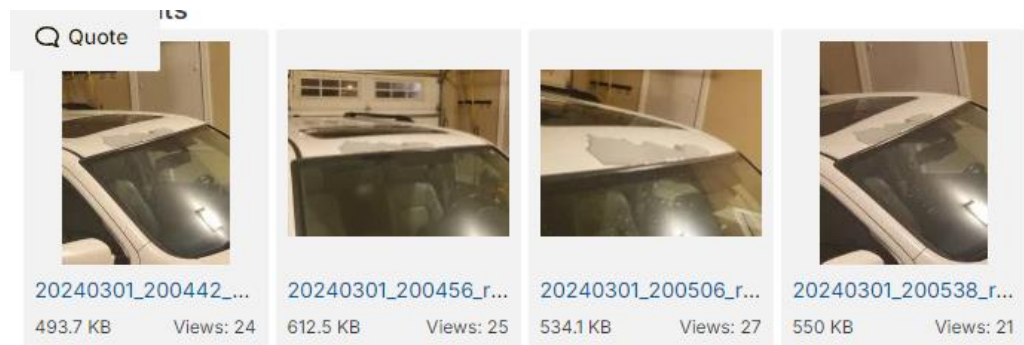
Based on all the previous posts, I guess I'm on my own with this
2nd occurrence? Or did someone have success with getting it
addressed by Honda?

Disclosure: I have not yet discussed the issue with Honda
dealership. I thought I should come to Piloteers as first step, so that
I can be well informed when I speak to Honda.

¹⁷ <https://www.piloteers.org/threads/pilot-paint-peeling-class-action.178384/?sortby=newest#replies>

- **Jolenecmccall on March 3, 2024**

- Same problem where do I go to file the suit! I purchased this 2014 Honda Pilot Touring \$50,000 car new from the dealer. Took it there this weekend to show them the damage that appeared in January 2024. They said it is past their extended 7 year warranty. Shocked I haven't received anything about my car ever from them! It is clearly a supplier and their choice a manufacture problem. This car is immaculate and has been garage kept and hand washed always. The dealer sent me to their paint and body shop (waste of my day) and the repair to paint not just the roof but hood was beginning to show signs too was over \$4,000 I will not pay this they need to. It is not fair to me to have this expense for just a 9 year old vehicle. It began peeling off like sign vinyl, pathetic. This is an expensive vehicle and amazed at Honda's lack of interest in wanting to keep their customers. Help where can I go file this class action law suit and is there one already started?



72. Owners and lessees of Honda Fits and Honda HR-Vs also note the widespread existence of the Paint Defect on their vehicles on Reddit.com, among other online sources:¹⁸

- **Kittymatcha in or about October 2023**

- 2019 Honda fit paint peeling

Of course my car is not included in the paint repair warranty for other Honda fits of prior years. Anyone else having the same issue with their Honda fit? I bought mine in October 2019.

¹⁸ https://www.reddit.com/r/hondafit/comments/15gl28z/2019_honda_fit_paint_peeling/;
https://www.reddit.com/r/HRV/comments/182753x/honda_refusing_to_cover_2016_paint_peeling/.



- **Jimmycheapseaweeek on May 6, 2024**

- My 2019 Fit did the exact same thing...and it's white as well. Honda won't fix this even though it's so obvious their white paint is [expletive]. The only way they might consider paying for the repair is if you are someone who always takes your Honda to the dealer for all your regular service or if you know someone at Honda corporate to pull some strings for you.

- **Urbanglowcam in or about October 2023**

- Honda refusing to cover 2016 paint peeling
- The paint on my 2016 orchid pearl is clearly flaking off. Honda isn't honoring the extended warranty since I am a little outside of the 7 year extension. Anyone experience something similar or have advice?



1
2 • **Vt8919 in or about October 2023**

- 3 ○ My 2016 had its roof repainted a year ago under warranty. The
4 funny thing is that Honda paid a Chrysler dealership to do it since
5 it was the closest paint shop in my area that met their standards.

6 There's also flaking in the gap where the front fenders and the hood
7 meet, and on the rear spoiler in the gap between it and the roof. But
8 those areas have been manageable and haven't gotten worse in
9 years.

10 White water based paint has a hard time bonding to the primer so
11 it's a problem amongst multiple brands. Honda, Toyota, Hyundai,
12 Kia, Ford and GM seem to have the worst issues.

13 73. In 2019, Honda could no longer feign ignorance and acknowledged the
14 widespread Paint Defect, issuing various TSBs¹⁹ for some of the impacted
15 make/models/model years/and paint colors, providing an (inadequate) extended
16 warranty to repair or compensate owners and lessees of Class Vehicles experiencing
17 the Paint Defect.

18 74. For instance, TSB 19-029, "Warranty Extension: White Diamond Pearl
19 Paint," issued by Honda on June 1, 2019, states in part:

20 This warranty extension only applies to 2014-16 MDX
21 vehicles that are painted NH-603 White Diamond Pearl.

22 The exterior paint on the roof and/or tailgate may peel off.
23 American Honda is extending the warranty on the paint of
24 the affected vehicles to 8 years from the original date of
25 purchase with no mileage limit.

26 ***

27 This warranty extension only applies to the panels listed in
28 the WARRANTY CLAIM INFORMATION section if they
exhibit a paint peeling problem. All paint repairs MUST have
DPSM approval before starting work.

¹⁹ A Technical Service Bulletin (TSB) is a document that provides instructions for repairing a vehicle when a manufacturer identifies a recurring problem. TSBs are created when a manufacturer receives information from dealers and customers about common issues, and then addresses them once a fix is approved

CORRECTIVE ACTION

Inspect the vehicle and, if necessary, have a ProFirst Certified Body Shop repaint the entire affected panel(s) with a tri-coat color, mid (mica) , and clear coat paint after obtaining DPSM approval.²⁰

3. Inspect the roof and tailgate areas for damage

If the paint on the vehicle appears similar to the images below, go to REPAIR PROCEDURE.²¹

MDX:



75. TSB 19-055, “Warranty Extension: Taffeta White Paint,” issued by Honda on August 29, 2019, applied to 2013 Honda Odysseys and 2014-2015 Honda Pilots, provided an extended warranty for seven years from the original date of purchase with no mileage limit, and stated regarding the covered Honda Odysseys and Pilots that “[t]he exterior paint on the roof and/or tailgate may peel off.”²²

76. TSB 19-064, “Warranty Extension: NH-788 White Orchid Pearl or Bellanova White Paint” issued by Honda on August 29, 2019, applied to 2015-2017 Honda Fits and 2016-2018 Honda HR-Vs, provided an extended warranty for seven years from the original date of purchase with no mileage limit, and stated that “[t]he

²⁰ <https://static.nhtsa.gov/odi/tsbs/2019/MC-10161250-0001.pdf> (emphasis in original)

²¹ On or about August 29, 2019, Honda superseded TSB 19-029 to cover only outsourced work to third-parties, stating: “As of August 29, 2019, only sublet claims will be accepted. Prior flat rate-based warranty claims will no longer be accepted. <https://static.nhtsa.gov/odi/tsbs/2019/MC-10164472-0001.pdf> (emphasis in original).

²² <https://static.nhtsa.gov/odi/tsbs/2019/MC-10164449-0001.pdf>.

1 exterior paint on the vehicle may peel off.”

2 77. As addressed below in Section H, the extended warranties provided by
3 Honda through its TSBs, as well as Honda’s standard and extended warranties were
4 unconscionable and fraudulent.

5 **D. Honda Knew of the Paint Defect before It Sold Class Vehicles to Plaintiffs**

6 78. Honda knew about the Paint Defect before it sold or leased Class Vehicles
7 with the Paint Defect to Plaintiffs (Plaintiff Toussaint in late 2013; Plaintiff Hernandez
8 in late 2017 (lease) and late 2020 (purchased); and Plaintiff Clemmens in 2019) and
9 Class Members, based on: (i) internal paint testing; (ii) prior TSBs from Honda
10 involving substantially similar paint issues; (iii) consumer reports of the Paint Defect;
11 and (iv) a prior settled Canadian class action lawsuit directly addressing the a
12 substantially similar paint issue as the Paint Defect at issue in this case. Despite its
13 knowledge (as detailed below), Honda did not disclose and actively concealed the Paint
14 Defect to Plaintiffs and the Class.

15 i. Internal Testing

16 79. Prior to a new paint and/or paint system being used on a vehicle (such as
17 the epoxy clear coat system used by Honda, for instance), automakers such as Honda
18 are known to employ multiple standards and test protocols to ensure long life and film
19 integrity of the paint system as well as the underlying substrate. In addition to extensive
20 exterior and accelerated weathering evaluation of clearcoats, there is additional
21 aggressive testing prior to the qualification of an automotive coating system to ensure
22 the paint system will provide long lasting protection when exposed to environmental
23 elements. These tests often run over the course of two-to-five years before a vehicle
24 using the paint system is brought to market.

25 80. Most of these test procedures are developed and standardized by the
26 American Society for Testing and Materials (“ASTM”) and the Society of
27 Automotive Engineers (“SAE”), and typically include:
28

- a. accelerated weathering tests to assess paint color, gloss retention, and appearance in general, such as Xenon Arc (subjecting test panels to intense radiation), QUV (subjecting test panels to high ultra-violet light and condensing humidity cycles), EMMAQUA (placing test panels on racks that rotate with the sun to provide maximum UV light exposure), and humidity tests (subjecting test panels to 100% relative humidity at 100°F for several weeks);
- b. long-term outdoor weathering tests, where test panels are placed on so called “test fences” at 45-degrees facing south (according to ASTM1 standards) in various environments, such as Florida (high UV light, humidity, and salt spray), Arizona (intense UV light and temperature), and industrial sites (high pollutants such as acid rain and various chemicals);
- c. corrosion resistance tests, including salt spray (subjecting test panels to 5 wt. salt spray at 95°F for several weeks), cyclic corrosion (subjecting test panels to various cycles of salt spray, humidity, wet/dry, temperature), condensing humidity (subjecting test panels to temperature cycling in highly saturated air, CASS (subjecting test panels to salt spray with added acetic acid for accelerated testing), and Kesternich (subjecting test panels to acid rain simulation);
- d. physical and mechanical tests, including flexibility, impact resistance abrasion resistance, scratch and mar resistance, coating thickness, adhesion, and hot and cold cycling; and chemical properties testing, including resistance to solvents, chemicals and various fluids the vehicle will likely encounter in the open environment.

81. Furthermore, Honda is member of the Automotive Industry Action Group (“AIAG”), which has a common Production Part Approval Process (“PPAP”). According to prevailing automotive industry standards during the relevant period (late 2012 to the present), it was and is standard practice to undertake a PPAP when making changes to an existing automotive design, including a change in paint and the process of applying the paint to a vehicle.

82. The Automotive Industry Action Group, of which Honda is a member, has developed a common PPAP standard for suppliers of automotive paint. The PPAP is a standardized, required process in the automotive industry that helps manufacturers and

1 suppliers communicate and approve production designs and processes before, during,
2 and after manufacture.

3 83. The PPAP is designed to demonstrate that a supplier has developed its
4 design and production process to meet the client's requirements, minimizing the risk
5 of failure by effective use of advanced planning. Requests for approval must be
6 supported in official PPAP format and with documented results when needed.

7 84. The purpose of any PPAP is to: (a) ensure that a supplier can meet the
8 manufacturability and quality requirements of the parts supplied to the customer; (b)
9 provide evidence that the customer engineering design record and specifications are
10 clearly understood and fulfilled by the supplier; and (c) demonstrate that the established
11 manufacturing process has the potential to produce the part that consistently meets
12 all requirements during the actual production run at the quoted production.

13 85. Typically, there are numerous PPAP requirements, including for material
14 performance, which includes paint performance. On information and belief, Honda
15 would have required its suppliers to test the paint, and its application, to see how it
16 performed in simulated real-world conditions to determine the quality and durability
17 of the paint, whether the paint adhered to the surface of the vehicle, whether it corroded
18 or delaminated, how it performed when subjected to heat, cold, light, moisture, and
19 rain, whether the color or gloss faded, changed, or was retained, among other
20 performance metrics.

21 86. Thus, either as part of the PPAP or independent of it, Honda performed
22 several of the above-described ASTM and SAE test procedures. In fact, Honda has
23 developed what is referred to as "Honda SAE Standards & Testing" that are used in
24 connection with the testing of its vehicles, including D2023-07 Rev.4 "Heat-Resistant
25 Coating," HES D6501-06 "General Test Methods for Coatings," HES D2021-04
26 "Corrosion Proof Coating (on metals)," and 5100Z-S04-0000 "Painting Quality of
27 Automobile Suspension Arc Welded Parts," as well as various other tests relating to
28 the performance of the paint used on its vehicles, including the Class Vehicles, in

1 simulated real-world conditions.

2 87. The development of the paint and the paint manufacturing process in this
3 case, including the testing performed in connection therewith, would have revealed the
4 Paint Defect. However, the details regarding the testing performed by Honda and the
5 results of that testing are in the exclusive custody and control of Honda.

6 88. Moreover, prior to Class Vehicle distribution, Honda would have conducted
7 factory audits and quality control checks that would have identified irregularities in
8 paint thickness, adherence, which would have made Honda aware of a substantially
9 heightened risk of future peeling.

10 ii. TSBs 19-029, 19-055, and 19-064 and Substantially Similar Prior TSBs

11 89. Honda's pre-sale knowledge of the Paint Defect is evidenced by TSBs 19-
12 029, 19-055, and 19-064 addressing the Paint Defect impacting the Class Vehicle. The
13 detailed repair procedure contained in those TSB—which involves removing the paint
14 and the e-coat if damaged and reapplying the paint—indicates Honda's familiarity with
15 the Paint Defect, its cause, and solution.

16 90. Honda's familiarity with the Paint Defect and the proper repair procedure
17 stems from its extensive pre-sale experience with substantially similar paint defects
18 and resulting TSBs in other Honda-manufactured vehicles.

19 91. Most notably, in May 2008, prior to the start of the sale of the Class
20 Vehicles in this case, Honda issued TSB 08-031, "Warranty Extension: Paint Peeling
21 on Dark Blue 2003-3005 Odysseys," where Honda described a substantially similar
22 paint peeling issue and stated: "[o]n potentially affected vehicles, the exterior paint
23 may peel off the horizontal (flat) surfaces and in recessed areas around the glass or the
24 sliding doors[,]” including—much like this case—the “[roof] including under the top
25 edge of the tailgate, under the top edge of the sliding glass doors, and the top of the
26 panel of the sliding doors.

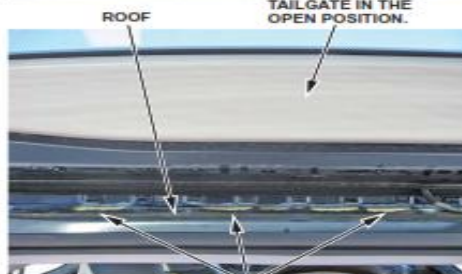
92. In TSB 08-031, Honda provided the following pictures of the relevant damage and described a similar repair procedure as set forth in TSB 19-029 (removal of the paint and/or e-coat and repainting):

INSPECTION PROCEDURE

Inspect the following areas for paint problems (peeling, flaking or, in some cases on the hood and the roof, coming off in sheets):

- Roof (including under the top edge of the tailgate, under the top edge of the sliding doors, and the top panel of the sliding doors)

Example of paint peeling off in sheets from the roof.



ROOF

TAILGATE IN THE OPEN POSITION.

Example of paint flaking off the roof, under the top edge of the tailgate.

SLIDING DOOR

Example of paint flaking off the roof, under the top edge of the sliding door.



• Hood

Example of paint peeling off the hood.



• Top half of the quarter panels

Example of paint flaking off the upper half of the left quarter glass.



• Top half of the fenders

Example of paint peeling off the top of the left fender.



If you find paint peeling or flaking in any of the above areas, go to REPAIR PROCEDURE.

93. The Honda Odyssey model years covered by TBS 08-031, like most of the Class Vehicles involved in this case, were painted in Honda's Alabama automobile factory, using a substantially similar defective type of paint and/or substantially similar defective manufacturing process and suffered a substantially similar paint defect as the Class Vehicles here. As a result, Honda fully understood the nature and causes of the Paint Defect from its experiences relating to TSB 08-031 prior to selling the Class Vehicles involved in this case. Honda attempted to ameliorate the paint peeling issue necessitating TSB 08-031 but understood, prior to vehicle sales to Plaintiffs and the

1 Class, that it did not fully remedy the issue in the Class Vehicles.

2 94. Likewise, between August 2012 and September 2014, the beginning of the
3 relevant timeframe and a time well-before Plaintiffs' Class Vehicle leases and
4 purchases (late 2013, late 2017, 2019, and 2020), Honda issued TSBs 12-049, 13-060,
5 and 14-034 addressing "Honda Civic Hood Paint Cracking" and "Civic Roof and Trunk
6 Paint Chalking and Clouding" in 2006-2013 Honda Civics.

7 95. TSBs 12-049, 13-060, and 14-034 involved the following pearl and
8 metallic paint colors, which—upon information and belief—were applied by Honda
9 during manufacturing using a three-stage paint process:

- 10 • B-92P – Nighthawk Black Pearl
- 11 • B-529P – Fiji Blue Pearl
- 12 • B-536P – Royal Blue Pearl
- 13 • B-537M – Atomic Blue Metallic
- 14 • • B-561P – Dyno Blue Pearl
- 15 • • NH-701M – Galaxy Gray Metallic
- 16 • • NH-731P – Crystal Black Pearl
- 17 • • NH-737M – Polished Metal Metallic
- 18 • • YR-578M – Urban Titanium Metallic
- 19 • • B-586P – Dyno Blue Pearl II (2012 model only)

20 96. Based on its experiences with issues with three-stage paints and paint layer
21 adhesion issues in 2006-2013 Honda Civics, Honda would have been well-aware of the
22 paint defects and/or defective paint processes that lead to poor paint adhesion much
23 like the Paint Defect plaguing the Class Vehicles in this case, particularly considering
24 the paint peeling and delaminating issues cited by Honda impacting 2003-2005 Honda
25 Odysseys as described in TSB 08-031. Nevertheless, Honda used similarly defective
26 paints and similar processes to manufacture the Class Vehicles, resulting in the Paint
27 Defect at issue here.

1 iii. Customer Complaints Directly to Honda and Online Sources Honda
2 Monitored

3 97. Honda also knew or should have known about the Paint Defect because
4 numerous consumer complaints regarding Paint Defect were made directly to Honda
5 or on online sources monitored by Honda. The large number of complaints, and the
6 consistency of their descriptions of the Paint Defect alerted, or should have alerted,
7 Honda that the Paint Defect existed and exclusively affected the Class Vehicles.

8 98. The full universe of complaints made directly to Honda about the Paint
9 Defect is information presently in the exclusive custody and control of Honda and is
10 not yet available to Plaintiffs prior to discovery. However, as set forth above, many
11 Class Vehicles owners complained directly to Honda and Honda authorized dealerships
12 about the Paint Defect.

13 99. Many of these complaints occurred at the beginning of the relevant
14 timeframe and a time well-before Plaintiffs' Class Vehicle leases and purchases (late
15 2013, late 2017, 2019, and 2020). For example, in the "nelci" post described above, the
16 owner states that he informed Honda of the Paint Defect in the 2014 Acura MDX in
17 Diamond Pearl owner and sought a repair for the defect at least as early as October
18 2013.

19 100. The "nelci" post is not an isolated report of the Paint Defect in the early
20 relevant timeframe. For instance on CarComplaints.com, users widely describe
21 informing Honda of the Paint Defect in Class Vehicles, as well as substantially similar
22 paint problems in related Honda models, between 2010 to 2013.

- 23 • **Warren L; September 25, 2010;2009 Honda Odyssey EX-**
24 **L 3.5**
25 • Well we just purchased the Van in July. I notice some small
26 light cracks on bumper. I never really paid attention to it.
27 Now few months later after a few car washes the clear coat
28 is peeling off all over even above the headlights. Clearly a
defect in the paint and clear coat. Dealer said they need to
take pictures and send it in to Honda to get this fixed. Still no
luck. Dealer ask if I hit something or got in a wreck? What a

1 dumb question when the clearcoat is peeling above lights and
2 on sides of front grill. If I was in a wreck the lights would be
3 gone. Anyway most of the clearcoat is peeled off and winter
4 is now taking its toll on the front end. Will let you know the
5 results. So much for a High Priced Van. :(²³

- 6 • **Kelly S., October 6, 2011; Honda Pilot ES-RES**²⁴
- 7 • My new honda pilot has been in the shop 3 different times
8 for paint issues. Now I just found another spot that is
9 chipping.
- 10 • **Lindsey T; December 28, 2012; 2009 Honda Odyssey**
11 **Touring**
- 12 • There was a paint peeling next to the moon roof when the
13 vehicle was purchased. The dealer fixed this at no charge.
14 Now there are 2 other spots peeling down to metal, on each
15 side of the vehicle just above the door on the frame. First
16 started on the passenger side about a year ago, and just last
17 week started on the driver side. Clearly this is not an area of
18 "normal wear and tear", and an issue with the paint.
19 For the price and year of the vehicle, this is not acceptable. I
20 take good care of my vehicles and am very disgusted with the
21 way the peeling paint makes my vehicle look. Not to mention
22 what it says about Honda, whose vehicles I love and own 2
23 of! Of course, there is nothing being done about it.²⁵
- 24 • **Balaji B.; Nov. 1, 2013;2011 Odyssey LX**²⁶
- 25 • I purchased a 2011 White Honda Odyssey from a small time
26 dealer on Nov 2012. I observed that the roof of the car had
its paint peeling off after about a year 2013 Nov. I went to a
reputed dealer, who acknowledged the paint issues with
Honda but told that 2011 models are not one of those. He
contacted Honda and came back with an offer of \$400 to
cover the paint issues. But that would no way cut it and I feel
cheated and ripped to have bought a Honda. Will never by
[sic] a Honda again

27 ²³ https://www.carcomplaints.com/Honda/Odyssey/2009/body_paint/clearcoat_peeling.shtml.

28 ²⁴ https://www.carcomplaints.com/Honda/Pilot/2011/body_paint/paint_chipping_easily.shtml

²⁵ https://www.carcomplaints.com/Honda/Odyssey/2009/body_paint/paint_peeling-2.shtml.

²⁶ https://www.carcomplaints.com/Honda/Odyssey/2011/body_paint/peeling_paint_on_roof.shtml.

1 101. To be sure, Honda was aware of the Paint Defect prior to Plaintiffs’ and
2 Class members’ purchases based on prior internal testing and prior TSBs. Early reports
3 of the Paint Defect, and substantially similar paint issues, in prior makes and models
4 of the Class Vehicles, including the sample of early-made complaints above, confirmed
5 what Honda already knew about the latent paint defect by the beginning of the relevant
6 time (late 2012). As the relevant time progressed, Honda no doubt increasingly
7 received or was aware of complaints made directly to Honda or its authorized dealers
8 or on websites closely monitored by Honda. By the time Plaintiffs purchased their
9 Class Vehicles (late 2013, late 2017, 2019, and 2020), Honda received hundreds if not
10 thousands of complaints of the Paint Defect affecting the Class Vehicles.

11 iv. Canadian Class Action Lawsuit

12 102. Honda also knew or should have known about the Paint Defect because of
13 complaints of substantially similar paint issues impacting Canadian Honda vehicles,
14 complaints ultimately resulting in a class action lawsuit being filed against Honda
15 Canada, Inc. in Quebec, Canada Superior Court on May 4, 2018, *Stéphanie Daunais v.*
16 *Honda Canada Inc.*, No. 500-06-000927-182.

17 103. The Canadian class action was brought on behalf of all persons who
18 purchased or leased a Honda Civic, Accord, CR-V, Odyssey, or Pilot whose paint
19 experienced peeling (delamination). Among other things, the Canadian class action
20 against Honda alleged a “phenomenon” of paint peeling affecting Honda vehicles
21 throughout North America.

22 104. In April 2022, the plaintiffs in the Canadian case and Honda Canada, Inc.
23 settled the lawsuit on a class-wide basis. The settlement, approved in May 2022,
24 allowed eligible claimants to receive compensation for costs associated with repainting
25 due to peeling or delaminating paint, including:

- 26 • Reimbursement of up to CAD \$2,550 for repainting the
- 27 vehicle.
- 28 • Cash compensation of up to CAD \$1,530 if they choose
- not to repaint.

- Compensation for previously completed repainting work.
- Reimbursement if they experienced a loss in resale value due to the paint issues.

The claims period began in September 2022 and extended until March 31, 2023, with up to \$27 million available for eligible claims.

105. Despite its various sources of pre-sale knowledge of the Paint Defect, Honda marketed the Class Vehicles to Plaintiffs at premium based on purported durability, high value, and ability retain value even though it knew that the Paint Defect would severely impact those attributes for the Class Vehicles during their reasonably expected life.

106. Moreover, despite its pre-sale knowledge of the Paint Defect prior to Plaintiffs' and Class members' purchases of the Class Vehicles, Honda never disclosed the latent Paint Defect to Class Members prior or during their purchases of the Class Vehicles, despite a duty to do so.

E. Honda Had a Duty to Disclose the Paint Defect before It Sold Class Vehicles to Plaintiffs and Class Members

107. From at least the beginning of the relevant time (late 2012 to the present), Honda had a duty to disclose to consumers, including Plaintiffs, that the Class Vehicles had a latent Paint Defect which caused their white paint to prematurely fail, bubble, peel, delaminate, and flake during the reasonably expected life of the Class Vehicle.

108. During the relevant time, Honda possessed exclusive and superior knowledge, not discoverable by Plaintiffs (including through reasonable inspection), regarding the Paint Defect, garnered through internal testing; prior substantially similar paint defects and TSBs related to those paint defects; widespread consumer reports directly to Honda and its authorized dealers and online sources closely monitored by Honda, and at least one substantially similar lawsuit. Therefore, Honda had a duty to disclose its superior knowledge of the Paint Defect but did not disclose that information to wrongly protect its business and bottom line.

109. During the relevant time, Honda made incomplete and false

1 representations that required a corrective and complete disclosure regarding the Paint
2 Defect, and the sources of pre-sale knowledge that revealed the Paint Defect to Honda.
3 Among other things, Honda represented in Product brochures, press releases, and other
4 sources that the Class Vehicles were high-value, stylish, luxurious, and durable, and
5 would retain their value far better than competitor vehicles. However, Honda failed to
6 disclose that the latent Paint Defect was a virtual inevitability which would severely
7 impact the Class Vehicles' value, resale potential, and could result in costly repairs
8 which would very likely fail to resolve the Paint Defect or restore the Class Vehicles
9 to their bargained-for value.

10 110. Moreover, during the relevant timeframe, Honda actively concealed
11 consumer reports of the Paint defect. Honda knew that if it disclosed that the Class
12 Vehicles suffered from the latent Paint Defect, Plaintiffs and Classes members would
13 not have purchased the Class Vehicles or would have paid far less for the Class
14 Vehicles. To selfishly protect its business and bottom-line, Honda concealed the Paint
15 defect in sales materials, television advertising, and other promotional channels.

16 111. Honda's misrepresentations and omissions were material because, when
17 purchasing cars, Plaintiffs, Class members, and other reasonable consumers were very
18 concerned with vehicle aesthetics, style, luxury, and design; durability and resale value;
19 and the potential need for repairs. Plaintiffs, Class members, and other reasonable
20 consumers would not expect the Paint Defect to arise during the reasonably expected
21 useful life of the Class Vehicles.

22 112. Moreover, the quality of a vehicle's exterior paint is integral to a vehicle's
23 use and function and safety by preventing rust and corrosion, and as acknowledged by
24 Honda, a high quality exterior paint is needed to complement its vehicle design and
25 aesthetics. Therefore, Honda had a duty to disclose that the Class Vehicles' white paint
26 here could prematurely fail, bubble, peel, delaminate, and flake based on the Paint
27 Defect.

F. Plaintiffs' Class Vehicle Purchases, Reliance on Honda's Representations and Omissions, and Attempts to Seek Remedies From Honda

Plaintiff Clemmens

113. Plaintiff Jim Clemmens is a resident of Baltimore, Maryland and is a citizen of Maryland. In 2019, Mr. Clemmens purchased a Certified Pre-Owned ("CPO") 2016 Acura MDX in White Diamond Pearl paint from Montgomery Acura, an authorized Acura dealer located at 1009 Bethlehem Pike, Montgomery, Pennsylvania 18936. On the Acura website, Honda states that "[e]very Acura [CPO] Vehicle is meticulously inspected inside and out – the first step in creating the ultimate luxury experience backed by incredible benefits."²⁷ Mr. Clemmens paid approximately \$34,000 for the Class Vehicle.

114. Prior to purchasing the Class Vehicle, Mr. Clemmens viewed marketing materials that touted the quality, durability, and value of Honda's vehicles, including the Class Vehicle, and the sales representative and/or other personnel at Montgomery Acura emphasized the quality, durability, and aesthetic features of the Class Vehicle, as well as the quality of Honda's used vehicles.

115. Mr. Clemmens relied on the information regarding the quality, durability, and value of the Class Vehicle conveyed in those marketing materials, as well as by the sales representative and/or other personnel, in deciding to purchase his Class Vehicle. Moreover, Mr. Clemmens specifically wanted to purchase a vehicle in a white color, and the availability of the MDX in White Diamond Pearl was a material factor in his decision to purchase his Class Vehicle.

116. Honda failed to disclose the Paint Defect to consumers, including Mr. Clemmens and other members of the Class, and Mr. Clemmens, therefore, purchased his Class Vehicle on the reasonable, but mistaken, belief that it would be a quality and durable vehicle that would retain its value. Mr. Clemmens would not have purchased

²⁷ <https://www.acuracertified.com/certified-preowned-benefits>.

1 the Class Vehicle, or would not have paid as much for it, had he known of the Paint
2 Defect and the propensity of the paint to bubble, peel, delaminate, and flake off the
3 Class Vehicle.

4 117. In or about Summer 2024, Mr. Clemmens noticed that his Acura MDX's
5 paint was failing, bubbling, peeling, delaminating and/or flaking, between the sunroof
6 and the front windshield, one of the most common areas for the Paint Defect to arise
7 on the Class Vehicles (something Honda acknowledged in its 2019 TSBs):





118. Mr. Clemmens properly maintained his Class Vehicle, and the paint issue between his sunroof and front window cannot be the result of any other factor except the Paint Defect.

119. In or about Summer 2024, Mr. Clemmens brought his Class Vehicle into AutoNation Acura Hunt Valley 0400 York Rd, Cockeysville, MD 21030, an authorized Acura dealer, seeking to repair his Class Vehicle. AutoNation Acura stated a repair would not be covered under Honda's extended warranty, refused to repair the Class Vehicle, and instructed Mr. Clemmens to reach out to Acura customer relations for assistance with the Paint Defect.

120. In or about Summer 2024, Mr. Clemmens reached out to Acura Customer relations and provided a picture of the Paint Defect and a repair quote from a local autobody mechanic (who acknowledged he had frequently seen Class Vehicles impacted by the Paint Defect) of \$2,365.

121. After various communications with Acura customer relations and repeated demands from Mr. Clemmens, Acura asserted that the repair was not covered by the extended warranty and refused to repair the Paint Defect or pay to repair the Paint

1 Defect. Mr. Clemmens has not yet repaired the Paint Defect (to the extent it can be
2 repaired).

3 122. Mr. Clemmens has suffered a concrete and ascertainable loss as a direct
4 and proximate result of Honda's misconduct in that Mr. Clemmens overpaid for his
5 Class Vehicle at the time of purchase, the value of his Class Vehicle has been
6 diminished as a result of the Paint Defect, and he will have to pay out-of-pocket to
7 repair a latent Paint Defect Honda was well aware of at the time of sale.

8 Plaintiff Hernandez

9 123. Plaintiff Terri Hernandez is a resident of Chula Vista, California. In late
10 2017, Ms. Hernandez leased a new 2017 Acura MDX in White Diamond Pearl paint
11 from Hoehn Motors, an authorized Honda dealer located at 5550 Paseo Del Norte,
12 Carlsbad, CA 92008. In late 2020, Ms. Hernandez purchased the 2017 Acura MDX
13 from Hoehn. Ms. Hernandez paid approximately \$50,000 to lease and then purchase
14 the Class Vehicle.

15 124. Prior to purchasing the Class Vehicle, Ms. Hernandez viewed marketing
16 materials that touted the quality, durability, and value of Honda's vehicles, including
17 the Class Vehicle, and the sales representative and/or other personnel at Hoehn Honda
18 emphasized the quality, durability, and aesthetic features of the Class Vehicle.

19 125. Ms. Hernandez relied on the information regarding the quality, durability,
20 and value of the Class Vehicle conveyed in those marketing materials, as well as by
21 the sales representative and/or other personnel, in deciding to purchase her Class
22 Vehicle. Moreover, Ms. Hernandez specifically wanted to purchase a vehicle in a
23 white color, and the availability of the MDX in White Diamond Pearl was a material
24 factor in her decision to purchase her Class Vehicle.

25 126. Honda failed to disclose the Paint Defect to consumers, including Ms.
26 Hernandez and other members of the Class, and Ms. Hernandez, therefore, purchased
27 her Class Vehicle on the reasonable, but mistaken, belief that it would be a quality and
28 durable vehicle that would retain its value. Ms. Hernandez would not have purchased

1 the Class Vehicle, or would not have paid as much for it, had she known of the Paint
2 Defect and the propensity of the paint to bubble, peel, delaminate and flake off the
3 Class Vehicle.

4 127. In or about Spring 2024, Ms. Hernandez noticed that her Acura MDX's
5 paint was failing, bubbling, peeling, delaminating and/or flaking by the rear/tailgate
6 area of the Class Vehicle, one of the most common areas for the Paint Defect to arise
7 on the Class Vehicles (something Honda acknowledged in its 2019 TSBs):



23 128. Ms. Hernandez properly maintained her Class Vehicle, and the paint issue
24 on her Class Vehicle's tailgate cannot be the result of any other factor except the Paint
25 Defect.

26 129. In or about Spring/Summer/Fall 2024, Ms. Hernandez reached out to
27 Acura Customer Relations and brought her Class Vehicle into Ball Acura, 2001
28 National City Boulevard, National City, CA 91950, an authorized Acura dealer,

1 seeking to repair her Class Vehicle. Ball Acura acknowledged the Paint Defect was a
2 widespread issue, stated it could not repair Ms. Hernandez's vehicle, but referred Ms.
3 Hernandez to an affiliated body shop for further assistance.

4 130. In Summer/Fall 2024, the affiliated body shop repainted the Paint Defect
5 and charged Ms. Hernandez approximately \$680 out-of-pocket to repaint the Paint
6 Defect. Ms. Hernandez decided to repaint the Paint Defect, despite the steep out-of-
7 pocket, costs to prevent rusting and corrosion and to preserve the aesthetics of the Class
8 Vehicle.

9 131. In Spring/Summer/Fall 2024, Ms. Hernandez reached out to Acura
10 Customer relations repeatedly demanding that Honda cover the full cost of repainting
11 her Class Vehicle. After various communications with Acura customer relations,
12 Honda asserted that the repair was not covered by the extended warranty, and Honda
13 refused to reimburse Ms. Hernandez the full cost of the repair, leaving Ms. Hernandez
14 with \$680 in out-of-pocket expenses for the repainting.

15 132. Repainting Ms. Hernandez's Class Vehicle did not remedy the Paint
16 Defect. Even if her Class Vehicle's tailgate was repainted properly (which is not clear
17 at this early stage), the Class Vehicle's latent Paint Defect will very likely manifest on
18 other parts of the Class Vehicle. Moreover, repainting Ms. Hernandez's Class Vehicle
19 did not restore the Class Vehicle to the value it would have had without the Paint Defect
20 (and as bargained for by Ms. Hernandez) and repainting the Class Vehicle has
21 permanently reduced her Class Vehicle's value.

22 133. Ms. Hernandez has suffered a concrete and ascertainable loss as a direct
23 and proximate result of Honda's misconduct in that Ms. Hernandez overpaid for her
24 Class Vehicle at the time of purchase, the value of her Class Vehicle has been
25 diminished as a result of the Paint Defect, and she has paid out-of-pocket costs to repair
26 a latent Paint Defect Honda was well aware of at the time of lease and sale.

27 Plaintiff Toussaint

28 134. Plaintiff Marie Toussaint is a resident of Haverstraw, New York and is a

1 citizen of New York. In late 2013, Ms. Toussaint purchased a new 2014 Acura MDX
2 in White Diamond Pearl paint from Acura of Ramsey, an authorized Acura dealer
3 located at 65 Route 17 South Ramsey, New Jersey 07446. Ms. Toussaint paid between
4 \$41,000 to \$42,000 for the Class Vehicle.

5 135. Prior to purchasing the Class Vehicle, Ms. Toussaint viewed marketing
6 materials that touted the quality, durability, and value of Honda's vehicles, including
7 the Class Vehicle, and the sales representative and/or other personnel at Hoehn Honda
8 emphasized the quality, durability, and aesthetic features of the Class Vehicle.

9 136. Ms. Toussaint relied on the information regarding the quality, durability,
10 and value of the Class Vehicle conveyed in those marketing materials, as well as by
11 the sales representative and/or other personnel, in deciding to purchase his Class
12 Vehicle. Moreover, Ms. Toussaint specifically wanted to purchase a vehicle in a white
13 color, and the availability of the MDX in White Diamond Pearl was a material factor
14 in her decision to purchase her Class Vehicle.

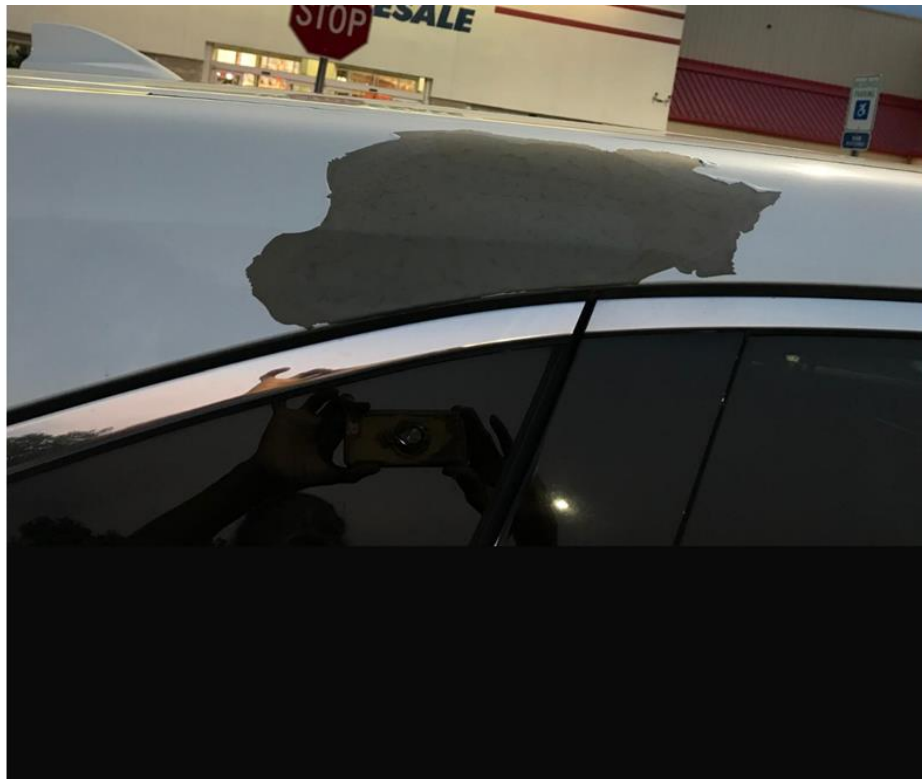
15 137. Honda failed to disclose the Paint Defect to consumers, including Ms.
16 Toussaint and other members of the Class, and Ms. Toussaint, therefore, purchased her
17 Class Vehicle on the reasonable, but mistaken, belief that it would be a quality and
18 durable vehicle that would retain its value. Ms. Toussaint would not have purchased
19 the Class Vehicle, or would not have paid as much for it, had she known of the Paint
20 Defect and the propensity of the paint to bubble, peel, delaminate and flake off the
21 Class Vehicle.
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1 138. In or about Summer 2018, Ms. Toussaint noticed that her Acura MDX's
2 paint was failing, bubbling, peeling, delaminating and/or flaking by sunroof area of the
3 Class Vehicle, one of the most common areas for the Paint Defect to arise on the Class
4 Vehicles (something Honda acknowledged in its 2019 TSBs):



16
17 139. In or about Summer 2018, Ms. Toussaint brought her Class Vehicle to
18 Acura of Ramsey, which agreed to repair the Paint Defect. However, Acura of
19 Ramsey's repair of the Paint Defect was inadequate and did not fully resolve the latent
20 Paint Defect throughout Ms. Toussaint's Class Vehicle.

21 140. In or about Summer 2024, Ms. Toussaint again noticed that her Acura
22 MDX's paint was failing, bubbling, peeling, delaminating and/or flaking, this time by
23 the rear/tailgate area of the Class Vehicle, one of the most common areas for the Paint
24 Defect to arise on the Class Vehicles (something Honda acknowledged in its 2019
25 TSBs):



141. Ms. Toussaint properly maintained her Class Vehicle, and the paint issue by the rear/tailgate area of her Class Vehicle cannot be the result of any other factor except the Paint Defect.

142. In or about Summer 2024, Ms. Toussaint brought her Class Vehicle to

1 Acura of Ramsey, again seeking to repair her Class Vehicle. Acura of Ramsey stated a
2 repair would not be covered under Honda's extended warranty and refused to repair
3 the Class Vehicle.

4 143. In or about Summer 2024, Ms. Toussaint reached out to Acura Customer
5 relations. After various communications with Acura customer relations, Honda
6 asserted that the repair was not covered by the extended warranty and refused to repair
7 or to pay to repair the Paint Defect. Ms. Toussaint has not yet repaired the Paint Defect
8 (to the extent it can be repaired), but a repair of the Paint Defect would likely cost
9 \$2,500.

10 144. Ms. Toussaint has suffered a concrete and ascertainable loss as a direct
11 and proximate result of Honda's misconduct in that Ms. Toussaint overpaid for her
12 Class Vehicle at the time of purchase, the value of her Class Vehicle has been
13 diminished as a result of the Paint Defect, and she will have to pay out-of-pocket to
14 repair a latent Paint Defect Honda was well aware of at the time of sale.

15 **G. Plaintiffs and Class Members Suffered Damages Caused by the Paint Defect**

16 145. Plaintiffs and Class members purchased the Class Vehicles based on their
17 reasonable but mistaken belief that their Class Vehicles were of high quality, durable,
18 and free of defects. However, the Class Vehicles delivered by Honda were not those
19 for which Plaintiffs and Class members bargained. Rather, the Class Vehicles suffered
20 from a common defect – the Paint Defect. Had Plaintiffs and Class members known
21 of the Paint Defect, they would have either: (a) paid substantially less for the Class
22 Vehicles; (b) required an immediate remedy that restored the Class Vehicles to the
23 conditions bargained for; or (c) not purchased or leased the Class Vehicles.

24 146. As a result of the disparity between the quality of the Class Vehicles
25 negotiated for and the Class Vehicles actually received, Plaintiffs and Class members
26 suffered economic harm. This economic harm can be quantified as: (a) the economic
27 value of an effective remedy that restores the Class Vehicles to their expected
28 conditions (or the economic harm from the lack of that remedy); (b) the discount that

1 Plaintiffs and Class members would have required to accept the Class Vehicles in
2 their actual condition; and/or (c) the diminished value of the Class Vehicles, both
3 those that have been repainted and those that have not.

4 147. Plaintiffs and Class members paid premiums to purchase the Class
5 Vehicles because of the brand, quality, durability, and value representations made by
6 Honda. A vehicle purchased or leased with the reasonable expectation that it is of high
7 quality and durable as advertised is worth more than a vehicle known to be subject to
8 the problems or risks associated with the Paint Defect. Plaintiffs and Class members
9 were harmed from the day they drove their Class Vehicles off the lot because they did
10 not get what they paid for – a high-quality and durable vehicle that would retain its
11 value under normal conditions.

12 148. As a direct result of Honda's misrepresentations and omissions, Plaintiffs
13 and Class members overpaid for their Class Vehicles and did not receive the benefit of
14 their bargain. Plaintiffs and Class members paid a premium for the Class Vehicles,
15 which Honda advertised as being durable and of high-quality and received Class
16 Vehicles that contained a known but concealed Paint Defect. Honda was unjustly
17 enriched because it obtained and retained monies paid by Plaintiffs and Class members
18 who paid a price for the Class Vehicles that was higher than the value of the vehicles
19 they received in return.

20 149. In addition, the widespread disclosure of the Paint Defect has caused a
21 decrease in the value of the Class Vehicles, and, therefore, Plaintiffs and Class
22 members have suffered a direct pecuniary loss in the form of the decreased value of
23 their Class Vehicles, even when the Paint Defect has not yet manifested.

24 150. As a result of Honda's unfair, deceptive, and/or fraudulent business
25 practices, and its failure to disclose the Paint Defect and the problems associated
26 therewith, owners and lessees of the Class Vehicles have suffered losses in money
27 and/or property.
28

H. The Class Vehicles' Warranties Were Unconscionable and/or Fraudulent

151. Honda sold the Honda Class Vehicles with a “New Vehicle Limited Warranty” (“NVLW”) which provided coverage for 3 years or 36,000 miles, whichever came first. Honda sold Acura Class Vehicles with an NVLW which provided coverage for 4 years or 50,000, whichever comes first.

152. The Class Vehicles' NVLW provides in substantially similar fashion:

Honda will repair or replace any part that is defective in material or workmanship under normal use. See Proper Operation on page 35. All repairs/replacements made under this warranty are free of charge. The replaced or repaired parts are covered only until this New Vehicle Limited Warranty expires.

153. The Class Vehicles NVLW also provides:

Honda may cover, on a case-by-case basis, some or all of the cost to repair a problem that is not covered by your vehicle's limited warranties.

154. CPO Class Vehicles also come with limited warranty coverage, but the limited warranty coverage Honda provides for CPO Class Vehicles “does not cover any item concerning the including cleaning, polishing, normal wear, and deterioration of any part” including paint.

155. According to Honda, the CPO vehicle limited warranty excludes paint because “[t]he vehicle[s were] inspected before delivery and, at that time, met the standards required of [Honda/Acura] Certified Pre-Owned Vehicles.”

156. TBS 19-029, 19-055, and 19-064 provided extended warranty coverage for certain Class Vehicles impacted by the Paint Defect, including 2014-2016 Acura MDXes in White Diamond Pearl; 2013 Honda Odysseys and 2013-2015 Honda Pilots in Taffeta White; and 2015-2018 Honda Fits and 2016-2018 Honda HR-Vs in White Orchid Pearl or Bellanova White (two colors which have the same paint code NH-788P). Honda extended the warranty covering the Paint Defect for 7 years from the original date of purchase for Honda Class Vehicles and 8 years from the date of original

1 purchase for Acura Class Vehicles.

2 157. Honda's warranties and TBS extended warranties were unconscionable
3 and fraudulent because:

- 4 • Honda leveraged its vastly unequal bargaining power to knowingly sell Class
5 Vehicles with uniform Paint Defects, which caused the Class Vehicles' paint
6 to fail, bubble, peel, delaminate, and flake. Despite its vastly superior position
7 and its exclusive knowledge, Honda failed to inform Plaintiffs and Class
8 members of the defect and misrepresented the reliability, quality,
9 performance, and qualities of the Class Vehicles. Instead of informing
10 Plaintiffs and the Class of the Products' known Paint Defect that that made
11 the Class Vehicles inevitably susceptible to paint failure bubbling, peeling,
12 delaminating, and flaking, Honda attempted to limit its warranty and
13 Plaintiffs' warranty and other remedies. The limited remedies Honda offered
14 unreasonably favor Honda given its superior and exclusive knowledge
15 regarding the Paint Defect, and contravene the reasonable expectations of
16 Plaintiffs and Class members concerning the performance of the Paint Defect.
- 17 • Honda knowingly limited the NVLW warranties by duration to avoid
18 addressing the vast bulk of Paint Defect claims. Although the latent Paint
19 Defect existed during the NVLW's period, Honda understood the majority of
20 Class Vehicles would not manifest the Paint Defect until after the NVLW
21 warranty period;
- 22 • Honda's warranties include misrepresentations and improper exclusions
23 covering the known Paint Defect, including the CPO vehicle warranty which
24 states "[CPO] vehicle[s] were] inspected before delivery and, at that time, met
25 the standards required of [Honda/Acura] Certified Pre-Owned Vehicles"
26 even though Honda knew that all CPO Class Vehicles included the latent
27 Paint Defect;
- 28 • The TBS extended warranties were improperly and knowingly limited by
duration, certain Class Vehicle model years and certain white paint colors to
avoid the bulk of claims. Although the latent Paint Defect existed during the
extended warranty period, Honda understood the vast majority of Class
Vehicles would not manifest the Paint Defect until after the TBS extended
warranty period and would manifest in other Class Vehicles, the majority of
which were not covered by Honda's TBS extended warranties;
- Repairs, even when provided pursuant to warranties, did not adequately
address and remedy the Paint Defect; and

- Honda failed to provide adequate notice of the extended warranty to impacted Class members despite stating it would provide such notice, depriving Class members—including Plaintiff who were never notified of the TBS extended warranties—with a reasonable opportunity to avail themselves of the warranty; and
- Many impacted Class members have had their claims rejected improperly and arbitrarily by Honda under the TBS extended warranties, even where their Class Vehicles qualified for coverage under the plain terms of the TBS extended warranties.

158. As evidenced by the repair instructions in the TSB, as well as the experiences of Plaintiffs (including Plaintiff Toussaint), repainting the Class Vehicles, even if done properly, does not remedy the Paint Defect and does not remedy the diminution of value that occurs because of the repainting.

159. For all the Class Vehicles, the factory paint was applied by robots to exacting tolerances consistently over all body panels—a point highlighted by Honda when marketing the Vehicles to customers—whereas the TSB repair process is haphazard at best and results in paint inconsistencies relative to appearance and longevity.

160. Indeed, the repainting of a Class Vehicle—that has been exposed to environmental elements during its use—using the TSB repair process could never achieve the same finish that is produced during the original painting of the Vehicle given the equipment and methods used by Honda in the paint system that is applied to the pristine body of a Class Vehicle, not to mention the pristine and strictly controlled environment in which the paint system is applied. Thus, it is the limited scope of the TSB’s repair procedures, the environment in which the Class Vehicles are repaired, and the limitations of body shops, including those who are certified by Honda, that all but assures that the quality of re-painting can never be as good as the original paint job. Honda knew that the TSB repair procedures were inadequate at the time they were first implemented, especially considering the environmental and technical limitations of the body shops it authorized to perform such repairs yet concealed that fact from the Class.

161. Even if the Class Vehicles were properly repainted, their values would still

1 be diminished, as repainted newer vehicles are worth less than vehicles with original
2 paint. Indeed, there is a stigma associated with a repainted vehicle, especially from a
3 luxury brand like Acura, and the fact that a vehicle has been repainted is often used by
4 a potential buyer as a bargaining chip to lower the price

5 162. In addition, anticipated car purchasers often shy away from a vehicle that
6 has been repainted, as it rings alarm bells that the vehicle may have been damaged in
7 an accident and repainted as a result. A non-original paint job could also be an
8 indication of major body repairs to the Class Vehicle that are being hidden, not to
9 mention rust.

10 163. According to an online poll conducted by CarMax, 72% of respondents
11 said that repainting the car is the strongest indicator of vehicle damage.¹⁸ In fact,
12 CarMax states that repainting is one of the biggest warning signs indicating a vehicle
13 may have been in a major accident, and instructs consumers to do the following in order
14 to determine whether a used car may have been in a serious accident:

15
16 Look for signs of repainting on the car, such as inconsistency
17 in the paintwork or paint on the molding or gaskets. Run
18 your finger along the inside of the door edge and see if the
19 finish is smooth or rough. A rough finish can be caused by
20 overspray during repainting. If signs of repainting are
21 found, ask additional questions to determine if the
22 paintwork was for minor scratches and dents or to cover up
23 more serious vehicle damage.²⁸

24 164. CarMax's vehicle appraisals are determined, among other criteria, by
25 its inspection of a "car's condition both inside and out," and it notes that "major
26 defects" can impact their offers. CarMax significantly lowers the appraised values for
27 vehicles, including the Class Vehicles, that have been repainted.

28 165. Kelley Blue Book ("KBB") similarly bases its appraisals on the condition

²⁸ CarMax, *CarMax.com "Quick Poll" Finds Consumers Often Misidentify Damage Indicators* (Apr. 28, 2008), <http://investors.carmax.com/news-releases/news-releases-details/2008/VIDEO-CarMax-Offers-Tips-to-Spot-Hidden-Vehicle-Damage/default.aspx>.

1 of the vehicle. KBB divides the condition of used vehicles into the following four
2 grades:

3 **Excellent** condition means that the *vehicle looks new*, is in
4 excellent mechanical condition and needs no reconditioning.
5 *This vehicle has never had any paint or body work* and is
6 free of rust. The vehicle has a clean Title History and will
7 pass a smog and safety inspection. The engine compartment
8 is clean, with no fluid leaks and is free of any wear or visible
9 defects. The vehicle also has complete and verifiable service
10 records. Less than 5 percent of all used vehicles fall into this
11 category.

12 **Good** condition means that the vehicle is *free of any*
13 *major defects*. This vehicle has a clean Title History, the
14 paint, *body and interior have only minor (if any) blemishes*,
15 and there are no major mechanical problems. There should
16 be little or no rust on this vehicle. The tires match and have
17 substantial tread wear left. A "good" vehicle will need some
18 reconditioning to be sold at retail. Most consumer owned
19 vehicles fall into this category.

20 **Fair** condition means that the *vehicle has some* mechanical
21 or *cosmetic defects* and needs servicing but is still in
22 reasonable running condition. This vehicle has a clean Title
23 History, *the paint, body and/or interior need work performed*
24 *by a professional*. The tires may need to be replaced. There
25 may be some repairable rust damage.

26 **Poor** condition means that the *vehicle has severe*
27 mechanical and/or *cosmetic defects* and is in poor running
28 condition. The vehicle may have problems that cannot be
readily fixed such as a damaged frame or a rusted-through
body. A vehicle with a branded title (salvage, flood, etc.) or
unsubstantiated mileage is considered "poor." A vehicle in
poor condition may require an independent appraisal to
determine its value.

166. According to KBB's online Condition Quiz, vehicles that have extensive
paintwork and no paint damage are considered to be, at most, in "Good" condition,
while vehicles that have no paintwork and extensive paint damage are considered to

1 be, at most, in “Fair” condition.

2 **I. Fraudulent Concealment Allegations**

3 167. Absent discovery, Plaintiffs are unaware of, and unable through
4 reasonable investigation to obtain, the true names and identities of those individuals at
5 Honda responsible for disseminating false and misleading marketing materials and
6 information regarding the Class Vehicles. Honda necessarily is in possession of, or
7 has access to, all of this information,

8 168. Plaintiffs’ claims arise out of Honda’s fraudulent concealment of the Paint
9 Defect and the peeling, delaminating, flaking, and bubbling of the Class Vehicles’ paint
10 it causes, and its representations about the quality, durability, and value of the Class
11 Vehicles, including the paint used on the Class Vehicles

12 169. To the extent that Plaintiffs’ claims arise from Honda’s fraudulent
13 concealment, there is no one document or communication, and no one interaction, upon
14 which Plaintiffs base their claims. Plaintiffs allege that at all relevant times, including
15 specifically at the time they purchased their Class Vehicles, Honda knew, or was
16 reckless in not knowing, of the Paint Defect; Honda was under a duty to disclose the
17 Paint Defect based upon its exclusive knowledge of it, its affirmative representations
18 about it, and its concealment of it, and Honda never disclosed the Paint Defect to
19 Plaintiffs or the public at any time or place or in any manner.

20 170. Plaintiffs make the following specific fraud allegations with as much
21 specificity as possible although they do not have access to information necessarily
22 available only to Honda:

23 171. Who: Honda actively concealed the Paint Defect from Plaintiffs and Class
24 members while simultaneously touting the quality and durability of the Class Vehicles,
25 as alleged above in paragraphs 27-46, 76-110, *supra*. Plaintiffs are unaware of, and
26 therefore unable to identify, the true names and identities of those specific individuals
27 at Honda responsible for such decisions.

28 172. What: Honda knew, or was reckless in not knowing, that the Class

1 Vehicles contain the Paint Defect, as alleged in paragraphs 63-101, *supra*. Honda
2 concealed the Paint Defect and made contrary representations about the quality and
3 durability, and other attributes of the Class Vehicles, as specified above in paragraphs
4 27-46, 76-110, *supra*.

5 173. When: Honda concealed material information regarding the Paint
6 Defect at all times and made representations about the quality and durability of
7 the Class Vehicles, starting no later than late 2012, or at the subsequent introduction
8 of certain models of Class Vehicles to the market, continuing through the time of sale,
9 and on an ongoing basis, and continuing to this day, as alleged above in paragraphs
10 27-46, *supra*. Honda has not disclosed the truth about the Paint Defect in the Class
11 Vehicles to anyone outside of Honda. Honda has never taken any action to inform
12 consumers about the true nature of the Paint Defect in Class Vehicles. And when
13 consumers brought their Class Vehicles to Honda complaining of the Paint Defect,
14 Honda denied any knowledge of, or responsibility for, the Paint Defect, and in many
15 instances, actually blamed Class Members for causing the problem.

16 174. Where: Honda concealed material information regarding the true nature of
17 the Paint Defect in every communication it had with Plaintiffs and Class members and
18 made contrary representations about the quality and durability of the Class Vehicles.
19 Plaintiffs are aware of no document, communication, or other place or thing in which
20 Honda disclosed the truth about the Paint Defect in the Class Vehicles to anyone
21 outside of Honda. Such information is not adequately disclosed in any sales
22 documents, displays, advertisements, warranties, owner's manual, or on Honda's
23 website.

24 175. How: Honda concealed the Paint Defect from Plaintiffs and Class
25 Members and made representations about the quality and durability of the Class
26 Vehicles. Honda actively concealed the truth about the existence and nature of the Paint
27 Defect from Plaintiffs and Class members at all times, even though it knew about the
28 Paint Defect and knew that information about the Paint Defect would be important to

1 a reasonable consumer, and Honda promised in its marketing materials that the Class
2 Vehicles have qualities that they do not have.

3 176. Why: Honda actively concealed material information about the Paint
4 Defect in Class Vehicles for the purpose of inducing Plaintiffs and Class members to
5 purchase Class Vehicles, rather than purchasing or leasing competitors' vehicles and
6 made representations about the quality and durability of the Class Vehicles and to earn
7 additional revenue. Had Honda disclosed the truth, for example in its advertisements
8 or other materials or communications, Plaintiffs (and reasonable consumers) would
9 have been aware of it, and would not have bought the Class Vehicles or would have
10 paid less for them.

11 **J. Tolling of the Statute of Limitations**

12 177. Fraudulent Concealment Tolling: Honda has known of the Paint Defect in
13 the Class Vehicles since at least late 2012, and has concealed from, or failed to, notify
14 Plaintiffs, Class members, and the public of the full and complete nature of the Paint
15 Defect, even when directly asked about it by Plaintiffs and Class members during
16 communications with Honda, Honda/Acura Customer Relations, Honda/Acura
17 dealerships, and Honda service centers. Honda continues to conceal the Paint Defect
18 to this day,

19 178. Any applicable statute of limitation has been tolled by Honda's
20 knowledge, active concealment, and denial of the facts alleged herein, which behavior
21 is ongoing.

22 179. Estoppel: Honda was, and is, under a continuous duty to disclose to
23 Plaintiffs and Class members the true character, quality, and nature of the Class
24 Vehicles. Honda actively concealed – and continues to conceal – the true character,
25 quality, and nature of the Class Vehicles and knowingly made representations about
26 the quality and durability of the Class Vehicles. Plaintiffs and Class members
27 reasonably relied upon Honda's knowing and affirmative representations and/or active
28 concealment of these facts. Based on the foregoing, Honda is estopped from relying

1 on any statutes of limitation in defense of this action.

2 180. Discovery Rule: The causes of action alleged herein did not accrue until
3 Plaintiffs and Class members discovered that their Class Vehicles contained the Paint
4 Defect.

5 181. However, Plaintiffs and Class members had no realistic ability to discern
6 that the Class Vehicles were defective until – at the earliest – after the Paint Defect
7 caused their Class Vehicles’ paint to prematurely fail, bubble, peel, delaminate, and
8 flake during the reasonably expected life of the Class Vehicle. Even then, Plaintiffs
9 and Class members had no reason to know the peeling, flaking, and bubbling were
10 caused by a defect in the Class Vehicles because of Honda’s active concealment of the
11 Paint Defect. Not only did Honda fail to notify Plaintiffs or Class members about the
12 Paint Defect, Honda, in fact, denied any knowledge of, or responsibility for, the Paint
13 Defect when directly asked about it, and, in many instances, actually blamed the owner
14 for causing the problem.

15 182. Thus, Plaintiffs and Class members were not reasonably able to discover
16 the Paint Defect until after they had purchased the Class Vehicles, despite their exercise
17 of due diligence, and their causes of action did not accrue until, at earliest, they
18 discovered that the Paint Defect caused their Class Vehicles’ paint to prematurely fail,
19 bubble, peel, delaminate, and flake during the reasonably expected life of the Class
20 Vehicle.

21 **CLASS ACTION ALLEGATIONS**

22 183. Plaintiffs seek to represent and certify the following class:

23 **National Class**

24 All persons or entities in the United States that purchased or
25 leased a Class Vehicle.

26 **California Class**

27 All persons or entities in the state of California that
28 purchased or leased a Class Vehicle.

Pennsylvania

All persons and entities in the state of Pennsylvania who

1 purchased or leased a Class Vehicle.

2 **New Jersey**

3 All persons and entities in the state of New Jersey who
4 purchased or leased a Class Vehicle (the National and state
5 classes are collectively referred to as the “Class” throughout
6 this Complaint for ease of reference).

7 184. The Class excludes any judge or magistrate assigned to this case, Honda,
8 Honda’s officers, directors, legal representatives, successors, and assigns, and any
9 entity in which Honda has a controlling interest.

10 185. Plaintiffs satisfy the requirements of Rule 23(a) and Rule 23(b).

11 186. Numerosity: This proposed class action involves at least tens of thousands
12 of Class Vehicles. Although the exact numbers are unknown to Plaintiffs, the number
13 of individuals in the Classes far exceed forty (40) individuals and very likely amount
14 to tens of thousands of individuals. As a result, the Classes are so numerous that joinder
15 of all members is impracticable.

16 187. The proposed classes are defined by objective criteria so that it is
17 administratively feasible for the Court to determine whether a particular individual is
18 a member. Individual class members can be identified through affidavits and/or
19 reference to documents in Honda’s possession, custody, or control without resort to a
20 mini-hearing on the merits.

21 188. Commonality: The questions of law and fact common to Classes
22 predominate over any questions which may affect individual members of those Classes
23 and include:

- 24 a. Whether the Class Vehicles suffer from a latent Paint Defect;
- 25 b. When and how Honda knew or suspected the Class Vehicles had a
26 latent Paint Defect;
- 27 c. Whether Honda adequately disclosed the Paint Defect to Plaintiffs
28 and Class Members;
- d. Whether Honda made false and/or misleading statements and
omissions concerning the Class Vehicles and the Paint Defect;

1 e. Whether Honda's conduct offended public policy without providing
2 any countervailing benefits; and

3 f. Whether Plaintiffs and the Class are entitled to actual and
4 compensatory damages, restitution, and statutory damages.

5 189. Typicality: Plaintiffs' claims are typical of those belonging to members of
6 the Classes. Each Plaintiff purchased or leased Class Vehicles with the latent Paint
7 Defect and suffered economic damages as a result Rule 23(b)(1)

8 190. Adequacy: Plaintiffs will fairly and adequately protect the interests of
9 Classes. Plaintiffs have retained counsel experienced in complex class action litigation,
10 and Plaintiffs and their chosen counsel have no interests adverse to those of the Classes.

11 Rule 23(b)(1)

12 191. Class action status is warranted under Rule 23(b)(1)(A). Prosecuting
13 separate actions by or against individual members of the Classes would create a risk of
14 inconsistent or varying adjudications with respect to individual members of the
15 Classes, which would establish incompatible standards of conduct for Honda.

16 192. Class action status is also warranted under Rule 23(b)(1)(B). Prosecuting
17 separate actions by individual members of the Classes would create a risk of
18 adjudications with respect to individual class members which would, as a practical
19 matter, be dispositive of the interests of the other members not parties to the
20 adjudications, or substantially impair or impede their ability to protect their interests.

21 Rule 23(b)(2) – Declaratory Relief

22 193. Rule 23(b)(2) of the Federal Rules of Civil Procedure: Honda has acted or
23 refused to act on grounds generally applicable to Plaintiffs and Class members, thereby
24 making appropriate declaratory relief, with respect to each Class as a whole.

25 Rule 23(b)(3) – Superiority

26 194. Common questions of law and fact exist as to every member of the Classes
27 and predominate over any questions solely affecting individual members of the
28 Classes, including the common questions identified above paragraph 188, supra.

1 195. A class action is also superior to other available means for the fair and
2 efficient adjudication of this controversy for other reasons. The injuries suffered by
3 individual members of the classes, though important to them, are relatively small
4 compared to the burden and expense of individual prosecution needed to address
5 Honda's misconduct. Individualized litigation presents a potential for inconsistent or
6 contradictory judgments. In contrast, a class action presents far fewer management
7 difficulties; allows the hearing of claims that might otherwise go unaddressed; and
8 provides the benefits of single adjudication, economies of scale, and comprehensive
9 supervision by a single court. Individual class member's interests in individually
10 controlling the prosecution of separate actions are outweighed by their interest in
11 efficient resolution by a single class action, and it would be desirable to concentrate in
12 this single venue the litigation of all class members who were induced to purchase and
13 use the contaminated Products and were injured by Honda's uniform misconduct.

14 196. Plaintiffs cannot be certain of the form and manner of proposed notice to
15 members of the Classes until the Classes are finally defined and discovery is completed
16 regarding the identity of class members. Plaintiffs anticipate, however, that notice by
17 mail will be given to members of the Classes who can be identified specifically. In
18 addition, notice may be published in appropriate publications, on the internet, in press
19 releases and in similar communications to reach members of the Classes.

20 197. Plaintiffs reserve their right to modify or amend the definition of the
21 proposed Classes and to assert additional subclasses at any time before the Classes are
22 certified by the Court.

23 **FIRST CLAIM FOR RELIEF**

24 **VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW**

25 **(California Business and Professions Code §§ 17200 *et seq.*)**

26 198. Plaintiffs reallege and incorporate by reference the allegations elsewhere
27 in the Complaint as if set forth fully herein.

28 199. Plaintiffs bring this claim on behalf of themselves and the National Class.

1 200. California Business and Professions Code §§ 17200 et seq., prohibits acts
2 of unfair competition, including any “unlawful, unfair or fraudulent business act or
3 practice.”

4 201. Honda engaged in unlawful business acts and practices in violation of
5 California Business and Professions Code §§ 17200 et seq., by engaging in the false
6 and misleading advertising specified elsewhere in this Complaint:

7 *Unlawful Business Practices*

8 202. By proscribing “any unlawful” business practice, the UCL borrows
9 violations of other laws and treats them as unlawful practices that the UCL makes
10 independently actionable. The acts, omissions, misrepresentations, practices, and non-
11 disclosures of Honda as alleged herein constitute “unlawful” business acts and
12 practices in that Honda’s conduct violates (at least):

- 13 • California’s False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 et
- 14 seq.;
- 15 • California’s Consumer Legal Remedies Act, Cal. Civ. Code § 1750 et seq.;
- 16 and

17 *Unfair Business Practices*

18 203. California Business and Professions Code §§ 17200 et seq., prohibits acts
19 of unfair competition. Unfair competition includes (a) conduct tethered to any
20 underlying constitutional, statutory or regulatory provision; (b) conduct that offends
21 public policy or is immoral, unethical, oppressive, unscrupulous or substantially
22 injurious to consumers; or (c) conduct with an injurious impact on the victim that
23 outweighs the reasons, justifications and motives of the alleged wrongdoer.

24 204. Here, Honda’s misconduct violates the “unfair” prong of the UCL. Honda
25 knew of and consciously disregarded or downplayed and falsely minimized the readily
26 foreseeable risk that the Class Vehicles paint would fail, peel, delaminate, or flake as a
27 result of the Paint Defect.

28 205. By ignoring those risks, Honda manufactured and placed into the stream

1 of commerce tens or hundreds of thousands of Class Vehicles with the latent Paint
2 Defect. Moreover, Honda misrepresented and omitted material information regarding
3 the Class Vehicles' design, aesthetic, value, and durability without indicating to
4 consumers in any way that the Class Vehicle would almost certainly experience the
5 Paint Defect.

6 206. Honda's misconduct caused consumers, including Plaintiffs, to buy
7 overpriced Class Vehicles and suffer other economic losses described above.

8 207. Honda's misconduct was tethered to underlying statutory and regulatory
9 violations; offended publicly; and was unfair and substantially injurious to Plaintiffs
10 and the Class. Honda's misconduct is not outweighed by any countervailing benefits
11 to consumers or competition, and Plaintiffs and the Class suffered injuries that could
12 not be avoided because of Honda's subterfuge.

13 *Fraudulent Business Acts or Practices*

14 208. California Business and Professions Code §§ 17200 et seq., prohibits
15 fraudulent business acts or practices.

16 209. The UCL prohibits fraudulent and misleading business acts and practices
17 and business acts or practices that although technically true either mislead or which
18 have a capacity, likelihood, or tendency to deceive or confuse the public.

19 210. The UCL also prohibits omissions/non-disclosures that are contrary to
20 representations actually made or omissions/non-disclosures that a Honda was obligated
21 to disclose, including in instances where (a) the defendant is in a fiduciary relationship
22 with the plaintiff; (b) when the defendant has exclusive knowledge of material facts
23 not known to the plaintiff; (c) when the defendant actively conceals a material fact from
24 the plaintiff; and (d) when the defendant makes partial representations but also
25 suppresses some material facts.

26 211. Here, the false and misleading advertising of the Class Vehicles, as alleged
27 herein, constitutes "fraudulent" business acts and practices because members of the
28 consuming public, including Plaintiffs and the Class were deceived by the false and

1 misleading advertising described elsewhere in the Complaint.

2 212. At least as early as the beginning of the relevant time (late 2012), Honda
3 understood the unreasonable risk that the Class Vehicles' paint would fail due to the
4 Paint Defect due to internal testing, prior TBSs, consumer complaints, and at least one
5 other lawsuit. Despite that knowledge and Honda's duty to disclose the Paint Defect,
6 it did not reveal the truth to Plaintiffs and other Class members.

7 213. At least as early as the beginning of the relevant time, Honda consciously
8 ignored those risks and/or intentionally and fraudulently downplayed and falsely
9 minimized those risks to reduce costs, induce substantial purchases by unsuspecting
10 consumers, prevent a steep decline or total cessation in sales, greatly inflate profits, and
11 avoid tens of millions of dollars of exposure and liability once the truth was revealed.

12 214. During the relevant times, Honda represented through an extensive
13 nationwide advertising campaign that the Class Vehicles were high-value, value-
14 retaining, luxurious and stylish, durable, and high-quality vehicles. Those
15 representations were false and or misleading because, during the relevant time, the
16 Class Vehicles suffered from the latent Paint Defect which would and will inevitably
17 cause paint failure, peeling, delaminating, and flaking.

18 215. Honda's omissions/non-disclosures are also material and actionable under
19 the UCL. Honda's omissions were contrary to representations already made or Honda
20 had a duty to disclose the Paint Defect because: (a) Honda had exclusive and superior
21 knowledge of those Paint Defect not known to Plaintiffs; (b) Honda actively concealed
22 those risks from Plaintiffs; and (c) Honda makes partial representations regarding the
23 Class Vehicles while suppressing facts concerning the Class Vehicles' Paint Defect.
24 Honda's omissions/non-disclosures were material because they related to Class
25 Vehicles integral function, design, purposes, and safety.

26 216. Honda leveraged its deception to induce Plaintiffs and the Class to
27 purchase Class Vehicles that were of lesser value and quality than advertised. Plaintiffs
28 and the Class reviewed and relied on Honda's representations and omissions and were

1 denied the benefit of the bargain when they decided to purchase the Class Vehicles
2 over competitor vehicles which did not have the Paint Defect. Had Honda not made
3 false and misleading statements and used false and misleading advertising tactics,
4 Plaintiffs and the Class would have paid far less than what they did for the Class
5 Vehicles or would not have purchased the Class Vehicles at all, among other economic
6 injuries.

7 217. The foregoing acts and practices have detrimentally impacted competition
8 and caused substantial harm to Plaintiffs, the Class, and the consuming public.
9 Plaintiffs and Class members were misled and suffered injuries and lost money or
10 property as a direct and proximate result of Honda's unlawful business practices.

11 218. By reason of the foregoing, Honda should be required to disgorge its illicit
12 profits, make restitution to Plaintiffs and the Class, and pay for Plaintiffs' and the
13 Class's attorneys' fees.

14 219. Plaintiffs reserve the right to identify additional provisions of law violated
15 by Honda as further investigation and discovery warrants.

16 **SECOND CLAIM FOR RELIEF**

17 **VIOLATION OF THE CALIFORNIA FALSE ADVERTISING LAW**

18 **(California Business and Professions Code §§ 17500 *et seq.*)**

19 220. Plaintiffs reallege and incorporate by reference the allegations elsewhere
20 in the Complaint as if set forth fully herein.

21 221. Plaintiffs bring this claim on behalf of themselves and the National Class
22 and the California Class.

23 222. The FAL prohibits any "unfair, deceptive, untrue, or misleading
24 advertising." Cal. Bus. and Prof. Code § 17500. The FAL prohibits not only advertising
25 which is false, but also advertising which, although true, is either actually misleading
26 or which has a capacity, likelihood or tendency to deceive or confuse the public.

27 223. Honda's acts and practices as described herein have deceived and/or are
28 likely to deceive Plaintiffs, the Class, and the public. During the relevant time, Honda

1 engaged in a widespread national advertising campaign misrepresenting that the Class
2 Vehicles were high-value, value-retaining, luxurious and stylish, durable, and high-
3 quality vehicles even though the Class Vehicles suffered from a latent Paint Defect that
4 would inevitably cause paint failure, peeling, delamination, and flaking.

5 224. Furthermore, at least as early as the beginning of the relevant time, Honda
6 understood the unreasonable risk that the Class Vehicles' paint would fail due to the
7 Paint Defect due to internal testing, prior TBSs, consumer complaints, and at least one
8 other lawsuit. Despite that knowledge and Honda's duty to disclose the Paint Defect,
9 it did not reveal the truth to Plaintiffs and other Class members. The advertisements,
10 labeling, policies, acts, and practices described herein were designed to, and did, result
11 in the purchase and lease of the Class Vehicles without knowledge of the Paint Defect.

12 225. The misrepresentations and omissions by Honda of the material facts
13 detailed elsewhere in this Complaint constitute false and misleading advertising.
14 Plaintiffs and the Class reviewed and relied on Honda's representations and omissions
15 and were denied the benefit of the bargain when they decided to purchase the Class
16 Vehicles over competitor vehicles which do not include the Paint Defect. Had Honda
17 not made false and misleading statements and used false and misleading advertising
18 tactics, Plaintiffs and the Class would have paid far less than what they did for the Class
19 Vehicles or would not have purchased the Products at all, among other economic
20 injuries.

21 226. By reason of the foregoing, Honda should be required to disgorge its illicit
22 profits, make restitution to Plaintiffs and Class, and pay for Plaintiffs' and the Class's
23 attorneys' fees.

24 **THIRD CLAIM FOR RELIEF**

25 **VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT**

26 **(California Civil Code §§ 1750 *et seq.*)**

27 227. Plaintiffs reallege and incorporate the allegations elsewhere in the
28 Complaint as if set forth fully herein.

1 228. Plaintiffs bring this claim on behalf of themselves and the proposed
2 National Class and the California Class.

3 229. The CLRA has adopted a statutory scheme prohibiting various deceptive
4 practices in connection with the conduct of a business providing goods, property, or
5 services primarily for personal, family, or household purposes.

6 230. Honda's policies, acts, and practices were intended to, and did, result in
7 the purchase and use of the products primarily for personal, family, or household
8 purposes, and violated and continue to violate at least the following sections of the
9 CLRA:

- 10 • § 1770(a)(5): which proscribes "[r]epresenting that goods or services
11 have sponsorship, approval, characteristics, ingredients, uses, benefits,
12 or quantities which they do not have";
- 13 • § 1770(a)(7) which proscribes "[r]epresenting that goods or services
14 are of a particular standard, quality or grade"; and
- 15 • § 1770(a)(9): which proscribes "[a]dvertising goods or services with
16 intent not to sell them as advertised."

17 231. As a proximate result of these violations by Honda, Plaintiffs and the Class
18 have suffered harm and damages in an amount to be determined at trial.

19 232. At this time, Plaintiffs only seek an injunction pursuant to Cal. Civ. Code
20 § 1782(d) enjoining Honda from continuing to employ the unlawful methods, acts, and
21 practices alleged elsewhere in this Complaint, including Honda's continuing pattern
22 and practice of denying repairs of the Paint Defect. If Honda is not restrained from
23 engaging in these practices in the future, Plaintiffs and the Class will continue to suffer
24 harm.

25 233. Plaintiffs intend to amend the Complaint to seek monetary relief in
26 accordance with the CLRA after providing Honda with notice pursuant to Civil Code
27 § 1782 on or about November 4, 2024

28 234. At the time of any amendment seeking damages under the CLRA,
Plaintiffs will demonstrate that the violations of the CLRA were willful, oppressive,
and fraudulent, thus supporting an award of exemplary damages.

1 235. Consequently, Plaintiffs and the Class will be entitled to actual and
2 exemplary damages against Honda for its violation of the CLRA. In addition, pursuant
3 to Cal. Civ. Code § 1780(a)(2), Plaintiffs and the Class will be entitled to an order
4 enjoining the above-described acts and practices, providing restitution to Plaintiffs and
5 the Class, ordering payment of costs and attorneys' fees, and any other relief deemed
6 appropriate and proper by the Court pursuant to California Civil Code § 1780.

7 **FOURTH CLAIM FOR RELIEF**

8 **BREACH OF EXPRESS WARRANTY**

9 236. Plaintiffs reallege and incorporate the allegations elsewhere in the
10 Complaint as if set forth fully herein.

11 237. Plaintiff Clemmens bring this claim on behalf of himself and the proposed
12 Pennsylvania Class.

13 238. The Pennsylvania Class and Honda are "persons" within the meaning of
14 73 PA. CONS. STAT. ANN. §201-2(2).

15 239. The Pennsylvania Class purchased or leased the Class Vehicles primarily
16 for personal, family, or household purposes within the meaning of 73 PA. CONS.
17 STAT. ANN. §201-9.2.

18 240. All of the acts complained of herein were perpetrated by Honda in the
19 course of trade or commerce within the meaning of 73 PA. CONS. STAT. ANN. §201-
20 2(3).

21 241. The Pennsylvania Unfair Trade Practices and Consumer Protection Law
22 ("Pennsylvania CPL") prohibits unfair or deceptive acts or practices, including: (i)
23 "Representing that goods or services have ... characteristics, ... Benefits or qualities
24 that they do not have"; (ii) "Representing that goods or services are of a particular
25 standard, quality or grade ... if they are of another"; (iii) "Advertising goods or services
26 with intent not to sell them as advertised"; and (iv) "Engaging in any other fraudulent
27 or deceptive conduct which creates a likelihood of confusion or misunderstanding."
28 73 PA. CONS. STAT. ANN. §201-2(4).

1 242. In the course of its business, Honda violated the Pennsylvania CPL
2 by knowingly misrepresenting and intentionally concealing material facts regarding the
3 quality of the Class Vehicles and the quality and benefits of the paint and paint process
4 used on the Class. Vehicles, as detailed above. Specifically, in marketing, offering for
5 sale/lease, and selling/leasing the defective Class Vehicles, Honda engaged in one or
6 more of the following unfair or deceptive acts or practices which are proscribed by the
7 Pennsylvania CPL:

- 8 • representing that the Class Vehicles have characteristics or benefits that
9 they do not have;
- 10 • representing that the Class Vehicles are of a particular standard and
11 quality when they are not;
- 12 • advertising the Class Vehicles with the intent not to sell them as
13 advertised; and/or
- 14 • Engaging in any other fraudulent or deceptive conduct which creates a
15 likelihood of confusion or misunderstanding.

16 243. Honda's scheme and concealment of the true characteristics of the Class
17 Vehicles were material to the Pennsylvania Class members, and Honda misrepresented,
18 concealed, or failed to disclose the truth with the intention that the Pennsylvania Class
19 members would rely on the misrepresentations, concealments, and omissions. Had
20 they known the truth, the Pennsylvania Class members would not have purchased or
21 leased the Class Vehicles, or would have paid significantly less for them.

22 244. The Pennsylvania Class members had no way of discerning that Honda's
23 representations were false and misleading, or otherwise learning the facts that Honda
24 had concealed or failed to disclose.

25 245. Honda had an ongoing duty to the Pennsylvania Class members to refrain
26 from unfair and deceptive practices under the Pennsylvania CPL in the course of its
27 business. Specifically, Honda owed the Pennsylvania Class members a duty to disclose
28 all the material facts concerning the Class Vehicles because it possessed exclusive
knowledge, it intentionally concealed such material facts from the Pennsylvania

1 Class members, and/or it made misrepresentations that were rendered misleading
2 because they were contradicted by withheld facts.

3 246. The Pennsylvania Class members suffered ascertainable loss and actual
4 damages as a direct and proximate result of Honda' concealment, misrepresentations,
5 and/or failure to disclose material information.

6 247. Pursuant to 73 PA. CONS. STAT. ANN. §201-9.2(a), the Pennsylvania
7 Class members seek an order awarding damages, treble damages, and any other just
8 and proper relief available under the Pennsylvania CPL.

9 **FIFTH CLAIM FOR RELIEF**

10 **VIOLATION OF THE NEW JERSEY CONSUMER FRAUD ACT**

11 **(N.J. STAT. ANN. §56:8-1, ET SEQ.)**

12 248. Plaintiffs reallege and incorporate the allegations elsewhere in the
13 Complaint as if set forth fully herein.

14 249. Plaintiff Toussaint bring this claim on behalf of herself and the proposed
15 New Jersey Class.

16 250. Honda, Plaintiff, and the New Jersey Class members are “persons” within
17 the meaning of N.J. STAT. ANN. §56:8-1(d). Honda engaged in “sales” of
18 “merchandise” within the meaning of §56:8-1(c) and (e).

19 251. The New Jersey Consumer Fraud Act (“New Jersey CFA”) makes
20 unlawful “[t]he act, use or employment by any person of any unconscionable
21 commercial practice, deception, fraud, false pretense, false promise, misrepresentation,
22 or the knowing concealment, suppression, or omission of any material fact with the
23 intent that others rely upon such concealment, suppression or omission, in connection
24 with the sale or advertisement of any merchandise or real estate, or with the subsequent
25 performance of such person as aforesaid, whether or not any person has in fact been
26 misled, deceived or damaged thereby.” N.J. STAT. ANN. §56:8-2.

27 252. In the course of its business, Honda violated the New Jersey CFA by
28 knowingly misrepresenting and intentionally concealing material facts regarding the

1 quality of the Class Vehicles and the quality and benefits of the paint and paint process
2 used on the Class Vehicles, as detailed above. Specifically, in marketing, offering
3 for sale/lease, and selling/leasing the defective Class Vehicles, Honda engaged in one
4 or more of the following unfair or deceptive acts or practices which are proscribed by
5 the New Jersey CFA:

- 6 • representing that the Class Vehicles have characteristics or benefits that
7 they do not have;
- 8 • representing that the Class Vehicles are of a particular standard and
9 quality when they are not;
- 10 • advertising the Class Vehicles with the intent not to sell them as
11 advertised; and/or;
- 12 • Engaging in any other fraudulent or deceptive conduct which creates a
13 likelihood of confusion or misunderstanding.

14 253. Honda's scheme and concealment of the true characteristics of the Class
15 Vehicles were material to the New Jersey Class members, and Honda misrepresented,
16 concealed, or failed to disclose the truth with the intention that the New Jersey Class
17 members would rely on the misrepresentations, concealments, and omissions. Had
18 they known the truth, the New Jersey Class members would not have purchased or
19 leased the Class Vehicles, or would have paid significantly less for them.

20 254. The New Jersey Class members had no way of discerning that Honda's
21 representations were false and misleading, or otherwise learning the facts that Honda
22 had concealed or failed to disclose.

23 255. Honda had an ongoing duty to the New Jersey Class members to refrain
24 from unfair and deceptive practices under the New Jersey CPA in the course of its
25 business. Specifically, Honda owed the New Jersey Class members a duty to disclose
26 all the material facts concerning the Class Vehicles because it possessed exclusive
27 knowledge, it intentionally concealed such material facts from the New Jersey Class
28 members, and/or it made misrepresentations that were rendered misleading because
they were contradicted by withheld facts.

1 256. The New Jersey members suffered ascertainable loss and actual damages
2 as a direct and proximate result of Honda' concealment, misrepresentations, and/or
3 failure to disclose material information.

4 257. Pursuant to N.J. STAT. ANN. §56:8-19, Plaintiff and the New Jersey
5 Class members seek an order awarding damages, treble damages, and any other just
6 and proper relief available under the New Jersey CFA.

7 **SIXTH CLAIM FOR RELIEF**
8 **BREACH OF EXPRESS WARRANTY**

9 258. Plaintiffs reallege and incorporate the allegations elsewhere in the
10 Complaint as if set forth fully herein.

11 259. Plaintiffs bring this claim on behalf of herself and the proposed National
12 Class.

13 260. Honda is and was at all relevant times a "merchant" and "seller" with
14 respect to the Class.

15 261. With respect to leases, Honda is and was at all relevant times a "lessor" of
16 motor vehicles.

17 262. The Class Vehicles are and were at all relevant times "goods."

18 263. In connection with the purchase or lease of all Class Vehicles, Honda
19 provided Plaintiff and the Class with a written warranty covering defects in materials
20 and workmanship of the Class Vehicles for three or four years, as well as TBS extended
21 warranties for seven or eight years, as detailed above. In addition, Honda's various
22 oral and written representations regarding the quality of the Class Vehicles and the
23 quality and benefits of the paint and paint process used on the Class Vehicles
24 constituted express warranties to Plaintiff and Class members

25 264. Honda's warranties formed a basis of the bargain that was reached
26 when Plaintiff and the Class members purchased or leased their Class Vehicles.

27 265. Honda breached its express warranties (including the implied covenant of
28 good faith and fair dealing) by: (a) knowingly providing Plaintiff and the Class

1 members with Class Vehicles containing defects in the materials and workmanship
2 with regard to the paint and paint process used on the Class Vehicles that were never
3 disclosed to Class members; (b) failing to repair or replace the defective Class Vehicles
4 at no cost within the four- year warranty period; (c) ignoring, delaying responses to,
5 and denying warranty claims in bad faith; and (d) supplying products and materials that
6 failed to conform to the representations made by Honda.

7 266. Thus, Honda's written warranties fail of their essential purpose and the
8 recovery of Plaintiffs and Class members is not limited to its remedies.

9 267. Plaintiff and Class members have given Honda a reasonable opportunity
10 to cure its breaches of express warranty, including when Plaintiffs sought Paint Defect
11 repairs from Honda directly and from Honda's agents (as described above) and
12 demanded such repairs or reimbursement for such repairs. Furthermore, in an
13 abundance of caution, on or about November 4, 2024, Plaintiffs each sent Honda a
14 letter by certified first class mail, detailing its warranty breaches, demanding relief, and
15 providing Honda an opportunity to cure.

16 268. Alternatively, Plaintiffs and Class members were not required to provide
17 Honda a notice an opportunity to cure because such an opportunity would be
18 unnecessary and futile given that the Honda has previously and consistently refused to
19 provide repairs and the repairs offered by Honda can neither cure the defect in the Class
20 Vehicles nor resolve the incidental and consequential damages flowing therefrom.

21 269. Likewise, Honda was on notice of its warranty breaches through
22 interactions with regulatory agencies and the issuance of the various TBSs; thousands
23 of consumer complaints and attempted repairs of the Paint Defect; and from other
24 external and internal sources, including internal testing, and a substantially similar
25 lawsuit filed in Canada. Plaintiffs and the Class provided Honda with an opportunity
26 to cure its breach of warranty, to no avail. Honda has refused to provide an adequate
27 remedy for the Paint Defect

28 270. Many Class members with Class Vehicles that have now manifested the

1 Paint Defect have learned of the futility of making a warranty claim for the Paint Defect
2 or bringing in their Class Vehicle for a repair to address the Paint Defect, through online
3 complaints and the experiences of others that have had their warranty claims denied
4 and/or have had inadequate repairs made to their Vehicles. As a result, many Class
5 members have decided to not present their Class Vehicles to Honda dealerships for
6 warranty claims and/or repairs, a requirement from which Class members are excused
7 considering the futility of Honda's purported remedies

8 271. Plaintiffs and Class members were in privity of contract with Honda by
9 virtue of their interactions with Honda and/or its retailers, who acted as Honda's agents.

10 272. Alternatively, privity of contract need not be established, and is not
11 required, because Honda is a manufacturer that provided a warranty directly to
12 Plaintiffs or Class members or otherwise had direct contact with Plaintiffs and Class
13 members. Similarly, Plaintiffs and Class members are the intended third-party
14 beneficiaries of the warranties between Honda and the authorized dealers who sold the
15 Class Vehicles. Honda's warranties were designed and intended for the benefit of
16 consumers who purchased the Class Vehicles. Honda also made direct representations
17 and omissions to Plaintiffs and the Class through its agents, in marketing materials, its
18 website, on third-party websites and in advertisements

19 273. Accordingly, Plaintiff and the Class members assert as additional and/or
20 alternative remedies, the revocation of acceptance of the goods and the return to
21 Plaintiff and the Class members of the purchase or lease price of all Class Vehicles
22 currently owned and leased, and for such other incidental and consequential damages
23 as allowed, in an amount to be determined at trial.

24 **SEVENTH CLAIM**

25 **FRAUDULENT CONCEALMENT**

26 274. Plaintiffs reallege and incorporate the allegations elsewhere in the
27 Complaint as if set forth fully herein.

28 275. Plaintiffs bring this claim on behalf of herself and the proposed National

1 Class

2 276. Honda fraudulently concealed and suppressed material facts concerning
3 the quality of the Class Vehicles and the paint used thereon, as well as the existence of
4 the Paint Defect.

5 277. Despite advertising the Class Vehicles as durable and being of high
6 quality, Honda knew when it manufactured, marketed, and sold or leased the Vehicles
7 that the paint used thereon suffered from a design and/or manufacturing defect that
8 reduced the Class Vehicles' value and subjected the Class Vehicles to failing, peeling,
9 delaminating, and flaking paint.

10 278. Honda failed to disclose these facts to consumers at the time it
11 manufactured, marketed, and sold or leased the Class Vehicles and Honda knowingly
12 and intentionally engaged in this concealment in order to boost sales and revenue,
13 maintain its competitive edge in the automobile market, and obtain windfall profit.
14 Through its active concealment and/or suppression of these material facts, Honda
15 sought to increase consumer confidence in the Class Vehicles, and to falsely assure
16 purchasers and lessors of the same that the Vehicles were of sound quality and that
17 Honda was a reputable manufacturer that stands behind the automobiles it
18 manufactures. Honda engaged in this behavior to protect its profits, avoid warranty
19 replacements, avoid recalls that would impair the brand's image, cost it money, and
20 undermine its competitiveness in the automobile industry.

21 279. Plaintiffs and Class members were unaware, and could not reasonably
22 discover on their own, that Honda's representations were false and misleading, or that
23 it had omitted material facts relating to the Class Vehicles

24 280. Honda had a duty to disclose, rather than conceal and suppress, the full
25 scope and extent of the Paint Defect because:

- 26
- 27 • Honda had exclusive or far superior knowledge of the Paint Defect
and concealment thereof. The facts regarding the Paint Defect and
concealment thereof were known and/or accessible only to Honda;
 - 28 • Honda knew that Plaintiffs and Class members did not know about,

1 or could not reasonably discover, the Paint Defect and concealment
2 thereof; and

- 3 • Honda made representations and assurances about the qualities of the
4 Class Vehicles, including statements about their quality, durability,
5 and high resale value, that were misleading, deceptive, and
6 incomplete without the disclosure of the fact that paint used on the
7 Vehicles suffered from a systemic design and/or manufacturing
8 defect.

9 281. These omitted and concealed facts were material because a reasonable
10 consumer would rely on them in deciding to purchase or lease the Class Vehicles, and
11 because they substantially reduced the value of the Class Vehicles purchased or leased
12 by Plaintiffs and Class members. Whether the Class Vehicles were defective, of sound
13 quality, and durable, and whether Honda stood behind such Vehicles, would have
14 been an important factor in Plaintiffs' and the Class members' decisions to purchase
15 or lease the Vehicles. Plaintiffs and Class members trusted Honda not to sell them
16 vehicles that were defective and significantly overpriced.

17 282. Honda intentionally and actively concealed and suppressed these material
18 facts to falsely assure consumers that their Class Vehicles were free from known
19 defects, as represented by Honda and reasonably expected by consumers

20 283. Plaintiffs and Class members were unaware of these omitted material facts
21 and would have paid less for the Class Vehicles, or would not have purchased/leased
22 them at all, if they had known of the concealed and suppressed facts. Plaintiffs and
23 Class members did not receive the benefit of their bargain due to Honda's fraudulent
24 concealment. Plaintiffs' and Class members' actions in purchasing the Class Vehicles
25 were justified. Honda was in exclusive control of the material facts, and such facts were
26 not known or reasonably knowable to the public, Plaintiffs, or Class members.

27 284. Plaintiffs and Class members relied to their detriment upon Honda's
28 reputation, fraudulent misrepresentations, and material omissions regarding the
quality, durability, and high resale value of the Class Vehicles.

28 285. As a direct and proximate result of Honda's deceit and fraudulent

1 concealment, including its intentional suppression of true facts, Plaintiffs and Class
2 members suffered injury. They purchased and leased Class Vehicles that had a
3 diminished value by reason of Honda's concealment of, and failure to disclose, the
4 Paint Defect, among other damages.

5 286. Accordingly, Honda is liable to Plaintiffs and the Class for their damages
6 in an amount to be proven at trial.

7 287. On information and belief, Honda has still not made full and adequate
8 disclosure and continues to defraud Plaintiffs and Class members. Honda also
9 continues to conceal material information regarding the Paint Defect.

10 288. Honda's acts were done deliberately, with intent to defraud, and in reckless
11 disregard of Plaintiffs' and the Class members' rights. Honda's conduct warrants an
12 assessment of punitive damages in an amount sufficient to deter such conduct in the
13 future, which amount is to be determined according to proof.

14 **EIGHTH CLAIM**
15 **UNJUST ENRICHMENT**

16 289. Plaintiffs reallege and incorporate by reference the allegations elsewhere
17 in the Complaint as if set forth fully herein.

18 290. Plaintiffs bring this claim on behalf of themselves and the National Class.

19 291. "Although there are numerous permutations of the elements of the unjust
20 enrichment cause of action in the various states, there are few real differences. In all
21 states, the focus of an unjust enrichment claim is whether the defendant was unjustly
22 enriched. At the core of each state's law are two fundamental elements—the defendant
23 received a benefit from the plaintiff and it would be inequitable for the defendant to
24 retain that benefit without compensating the plaintiff. The focus of the inquiry is the
25 same in each state." *In re Mercedes-Benz Tele Aid Contract Litig.*, 257 F.R.D. 46, 58
26 (D.N.J. Apr. 24, 2009) (quoting *Powers v. Lycoming Engines*, 245 F.R.D. 226, 231
27 (E.D. Pa. 2007)).

28 292. Plaintiffs bring this claim as an alternative to the contractual warranty

1 claims asserted below and in the event that Plaintiffs prevail on their claims that any
2 contract with Honda (including any express warranty) was fraudulently induced and/or
3 Plaintiffs prevail in proving that the warranties cannot be enforced by Honda due to
4 Honda having provided the warranties only after entering into a contract with a
5 purchaser or lessor, or due to Honda's intentional and deceptive efforts to conceal the
6 Paint Defect and avoid its warranty obligations.

7 293. Honda has received hundreds of millions or more in revenue from the sale
8 of the Class Vehicles between late 2012 and the present.

9 294. This revenue was a benefit conferred upon Honda by Plaintiffs and Class
10 members, individuals living across the United States.

11 295. Honda manufactured, marketed, and sold defective Class Vehicles to
12 Plaintiffs and Class members, while actively concealing the vehicles' known defects
13 and touting their quality, durability, and high resale value.

14 296. Honda benefitted from selling defective cars for more money than they
15 were worth, at a profit, and Plaintiffs have overpaid for the cars and, in some instances,
16 been forced to pay to (unsuccessfully) repair the Paint Defect.

17 297. Plaintiffs and Class members elected to purchase or lease the Class
18 Vehicles based on Honda's misrepresentations, deception, and omissions. Honda knew
19 and understood that it would (and did) receive a financial benefit, and voluntarily
20 accepted the same, from Plaintiffs and Class members when they elected to purchase
21 or lease the Class Vehicles.

22 298. The Class Vehicles' defect, and Honda's concealment of the same, enriched
23 Honda beyond its legal rights by securing through deceit and falsehood millions of
24 dollars in revenues between late 2012 and the present.

25 299. Therefore, because Honda will be unjustly enriched if it is allowed to
26 retain the revenues obtained through falsehoods, deception, and misrepresentations,
27 Plaintiffs and each Class member are entitled to recover the amount by which Honda
28 was unjustly enriched at his or her expense.

1 300. Accordingly, Plaintiffs, on behalf of themselves and each Class member,
2 seek damages against Honda in the amounts by which it has been unjustly enriched at
3 Plaintiffs' and each Class member's expense, and such other relief as this Court deems
4 just and proper.

5 **JURY DEMAND**

6 301. Plaintiffs demand a trial by jury on all issues.

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, , Plaintiffs, individually and on behalf of the members of the
9 Class, respectfully request that the Court certify the proposed Class, including
10 designating the named Plaintiffs as representatives of the Class and their respective
11 state classes and appointing the undersigned as Class Counsel, and the designation of
12 any appropriate issue classes, under the applicable provisions of Fed. R. Civ. P. 23, and
13 that the Court enter judgment in Plaintiffs' favor and against Honda including the
14 following relief:

- 15 a) A declaration that any applicable statutes of limitations are tolled due to
16 Honda's fraudulent concealment and that Honda is estopped from relying
17 on any statutes of limitations in defense;
- 18 b) Restitution, compensatory damages, and costs for economic loss and out-
19 of- pocket costs;
- 20 c) Punitive and exemplary damages under applicable law;
- 21 d) Reimbursement and compensation of the full purchase price for any
22 replacement paint job purchased by a Plaintiff or Class member;
- 23 e) A determination that Honda is financially responsible for all Class
24 notices and the administration of Class relief;
- 25 f) Any applicable statutory or civil penalties;
- 26 g) An order requiring Honda to pay both pre-judgment and post-judgment
27 interest on any amounts awarded;
- 28 h) An award of reasonable counsel fees, plus reimbursement of reasonable

costs, expenses, and disbursements, including reasonable allowances for the fees of experts;

i) Leave to amend this Class Action Complaint to conform to the evidence produced in discovery and at trial

j) Any such other and further relief the Court deems just and equitable.

Dated: November 12, 2024

Respectfully submitted,

By: /s/ Daniel L. Keller

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